

# AGENDA

## Planning Committee

Date: **Wednesday 16 May 2012**

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Time: **10.00 am**

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Place: **The Council Chamber, Brockington, 35 Hafod Road,  
Hereford**

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Notes: Please note the **time, date** and **venue** of the meeting.

For any further information please contact:

**Ricky Clarke, Democratic Services Officer**

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If you would like help to understand this document, or would like it in another format or language, please call Ricky Clarke, Democratic Services Officer on 01432 261885 or e-mail [rclarke@herefordshire.gov.uk](mailto:rclarke@herefordshire.gov.uk) in advance of the meeting.

# Agenda for the Meeting of the Planning Committee

## Membership

<b>Chairman</b>	<b>Councillor PGH Cutter</b>
<b>Vice-Chairman</b>	<b>Councillor BA Durkin</b>
	<b>Councillor PA Andrews</b>
	<b>Councillor AN Bridges</b>
	<b>Councillor PJ Edwards</b>
	<b>Councillor DW Greenow</b>
	<b>Councillor KS Guthrie</b>
	<b>Councillor J Hardwick</b>
	<b>Councillor AJ Hempton-Smith</b>
	<b>Councillor JW Hope MBE</b>
	<b>Councillor RC Hunt</b>
	<b>Councillor Brig P Jones CBE</b>
	<b>Councillor JG Lester</b>
	<b>Councillor MD Lloyd-Hayes</b>
	<b>Councillor G Lucas</b>
	<b>Councillor RI Matthews</b>
	<b>Councillor FM Norman</b>
	<b>Councillor GR Swinford</b>
	<b>Councillor PJ Watts</b>

## GUIDANCE ON DECLARING PERSONAL AND PREJUDICIAL INTERESTS AT MEETINGS

### What is a personal interest?

You have a personal interest in a matter if that matter affects the well-being or financial position of you, your relatives or people with whom you have a close personal association more than it would affect the majority of other people in the ward(s) to which the matter relates.

A personal interest can affect you, your relatives or people with whom you have a close personal association positively or negatively. If you or they would stand to lose by the decision, you should also declare it.

You also have a personal interest in a matter if it relates to any interests, which you must register.

### What do I need to do if I have a personal interest?

You must declare it when you get to the item on the agenda headed "Declarations of Interest" or as soon as it becomes apparent to you. You may still speak and vote unless it is a prejudicial interest.

If a matter affects a body to which you have been appointed by the authority, or a body exercising functions of a public nature, you only need declare the interest if you are going to speak on the matter.

### What is a prejudicial interest?

You have a prejudicial interest in a matter if;

- a) a member of the public, who knows the relevant facts, would reasonably think your personal interest is so significant that it is likely to prejudice your judgment of the public interest; and
- b) the matter affects your financial interests or relates to a licensing or regulatory matter; and
- c) the interest does not fall within one of the exempt categories at paragraph 10(2)(c) of the Code of Conduct.

### What do I need to do if I have a prejudicial interest?

If you have a prejudicial interest you must withdraw from the meeting. However, under paragraph 12(2) of the Code of Conduct, if members of the public are allowed to make representations, give evidence or answer questions about that matter, you may also make representations as if you were a member of the public. However, you must withdraw from the meeting once you have made your representations and before any debate starts.

## AGENDA

		Pages
1.	<b>APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
2.	<b>NAMED SUBSTITUTES (IF ANY)</b> To receive details any details of Members nominated to attend the meeting in place of a Member of the Committee.	
3.	<b>DECLARATIONS OF INTEREST</b> To receive any declarations of interest by Members in respect of items on the Agenda.	
4.	<b>MINUTES</b> To approve and sign the Minutes of the meeting held on 25 April 2012.	1 - 12
5.	<b>CHAIRMAN'S ANNOUNCEMENTS</b> To receive any announcements from the Chairman.	
6.	<b>APPEALS</b> To be noted.	
7.	<b>N112348/F - MOONFIELDS, ADJACENT TO WOODBINE COTTAGE, OCLE PYCHARD, HEREFORD HR1 3RE</b> Change of use of land from agricultural to a one family traveller site with siting of 2 mobile homes and 2 touring caravans, shed and redesigned access.	13 - 24
8.	<b>S113542/F - WESTHIDE, HEREFORDSHIRE, HR1 3RQ</b> Construction of farm access road (part retrospective).	25 - 30
9.	<b>S113131/F AND S113132/C - VICTORIA HOUSE, 149-153 EIGN STREET, HEREFORD, HR4 0AN</b> Erection of retirement living housing for the elderly (category II type accommodation), communal facilities, landscaping and car parking.	31 - 44
10.	<b>N113545-F - LAND BEHIND 43 DUKE STREET, KINGTON, HEREFORDSHIRE, HR5 3BL</b> Proposed construction of 4 houses and garages.	45 - 56
11.	<b>S120859/CD - ADJACENT TO THE OLD HOUSE, HIGH TOWN, HEREFORD</b> Proposed sculpture (Hereford Bull) on stone plinth.	57 - 62
12.	<b>S113577/F - ALTON ROAD, ROSS ON WYE, HEREFORDSHIRE, HR9 5ND</b> Erection of 90 bed care home for the elderly.	63 - 70
13.	<b>S113564/F - THE BULL RING INN, KINGSTONE, HEREFORD, HR2 9HE</b> Change of use of the garden from Use Class A4 Drinking Establishment to Use Class C3 Dwelling Houses. Construction of 2 new dwellings and creation of public pavement.	71 - 78

**14. DATE OF NEXT MEETING**

Date of next site inspection - 29 May 2012

Date of next meeting - 6 June 2012

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- Inspect minutes of the Council and all Committees and Sub-Committees and written statements of decisions taken by the Cabinet or individual Cabinet Members for up to six years following a meeting.
- Inspect background papers used in the preparation of public reports for a period of up to four years from the date of the meeting. (A list of the background papers to a report is given at the end of each report). A background paper is a document on which the officer has relied in writing the report and which otherwise is not available to the public.
- Access to a public Register stating the names, addresses and wards of all Councillors with details of the membership of Cabinet and of all Committees and Sub-Committees.
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- Have access to a list specifying those powers on which the Council have delegated decision making to their officers identifying the officers concerned by title.
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## HEREFORDSHIRE COUNCIL

BROCKINGTON, 35 HAFOD ROAD, HEREFORD.

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HEREFORDSHIRE COUNCIL

**MINUTES of the meeting of Planning Committee held at The Council Chamber, Brockington, 35 Hafod Road, Hereford on Wednesday 25 April 2012 at 10.00 am**

**Present:** Councillor PGH Cutter (Chairman)  
Councillor BA Durkin (Vice Chairman)

Councillors: PA Andrews, PJ Edwards, DW Greenow, KS Guthrie, J Hardwick, AJ Hempton-Smith, JW Hope MBE, JA Hyde, Brig P Jones CBE, JF Knipe, JG Lester, MD Lloyd-Hayes, G Lucas, FM Norman, R Preece and PJ Watts

**In attendance:** Councillors WLS Bowen, RJ Phillips and A Seldon

**169. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors AN Bridges, RC Hunt, RI Matthews and GR Swinford.

**170. NAMED SUBSTITUTES (IF ANY)**

In accordance with paragraph 4.1.23 of the Council's Constitution, Councillors JF Knipe, R Preece and JA Hyde attended the meeting as substitute members for Councillors AN Bridges, RI Matthews, and RC Hunt.

**171. DECLARATIONS OF INTEREST**

**6. N113363F - KINGSLAND FIRE STATION, ARBOUR LANE, KINGSLAND, HEREFORDSHIRE, HR6 9RZ.**

Councillor BA Durkin, Prejudicial, The Councillor has carried out work for the fire authority.

Councillor Brig P Jones CBE, Prejudicial, The Councillor is a member of the fire authority.

Councillor DW Greenow, Prejudicial, The Councillor is a member of the fire authority.

Councillor J Hardwick, Personal, The Councillor has a family member who works for the fire service.

Councillor MD Lloyd-Hayes, Prejudicial, The Councillor is a member of the fire authority.

Councillor PJ Watts, Prejudicial, The Councillor is a member of the fire authority.

**7. S120210F - CASTLE LODGE HOTEL, GREEN COURT, WILTON, HEREFORDSHIRE, HR9 6AD.**

Councillor J Hardwick, Personal, The Councillor is a member of the AONB board.

Councillor JA Hyde, Personal, The Councillor is a member of the AONB board.

Councillor PGH Cutter, Personal, The Councillor is Vice-Chairman of the Wye Valley AONB Board and also has a work premises in the area.

**8. N113558F - THE RHYSE FARM, LYONSHALL, KINGTON, HEREFORDSHIRE, HR5 3LX.**

Councillor DW Greenow, Personal, The applicant was a friend of the Councillor's son.

**172. MINUTES**

**RESOLVED: That the Minutes of the meeting held on 4 April 2012 be approved as a correct record and signed by the Chairman.**

**173. CHAIRMAN'S ANNOUNCEMENTS**

The Head of Neighbourhood Planning advised the Committee that there was an on-going application for a Judicial Review in respect of the planning permission for polytunnel development at Pennoxstone Court. It had been concluded by Officers that the Council should submit to the judgement of the High Court and consequently the planning permission would be quashed. Once this happened this would result in the application being undetermined and it would have to therefore come back at a future date for determination by the Committee.

**174. N113363F - KINGSLAND FIRE STATION, ARBOUR LANE, KINGSLAND, HEREFORDSHIRE, HR6 9RZ**

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet. In summing up he advised Members that the application was finely balanced and although it was not explicitly in accordance with Policy HBA6 of the Unitary Development Plan, it was considered that the material considerations outlined in the report outweighed the policy requirements in relation to the Conservation Area.

In accordance with the criteria for public speaking, Mrs Sharp-Smith, a neighbouring resident, spoke in objection to the application and Mr Pryce, the applicant, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor WLS Bowen, the local ward member, commented on a number of issues, including:

- Members were thanked for attending a site visit.
- The fire service presence was greatly appreciated and valued in Kingsland.
- Presentations had been made to the Parish Council in respect of the application but there had been no discussion on the matter.
- The Parish Council had voted unanimously against the application due to the impact on the conservation area.
- The application would not enhance or preserve the conservation area.
- English Heritage strongly objected to the application.
- All training would take place in the evening or at weekends.
- Leominster Enterprise Park would be a better location for the training facility.
- A site at the Enterprise Park had been offered to the applicants at a peppercorn rent.
- Could the application be deferred for 90 days for further discussions in respect of the site at the Enterprise Park.

The debate was opened by a Member of the committee voicing his concerns in respect of the application. It was noted that the committee needed to judge the application on its



merits, and that the application was for a substantial development in a conservation area. It was considered that the proposed application would not preserve or enhance the conservation area, a statement that was supported by the Conservation Manager's comments, and that it should be refused as it was contrary to Policies HBA6 and LA2 of Herefordshire Council's Unitary Development Plan.

In response to a question regarding landscaping, the Principal Planning Officer confirmed that additional screening had been recommended at the eastern boundary of the site and that the proposed condition did address the concerns raised. In response to a further question in respect of car parking, he advised that there was ample parking provision on the site.

Members noted that there could be a number of large vehicles attending the site as part of the training exercises.

In response to further questions from the Committee, the Principal Planning Officer advised that the colour of the proposed buildings could be controlled through an appropriate condition; that the fire station had been at the site since 1979 and that the site had been a conservation area for a considerable time prior to that date.

The Development Manager (Northern Localities) advised Members that the application had to be considered on its merits and that any alternative site proposed was not a material consideration. He added that they should make their decision based on the need for the site against the impact on the conservation area.

Members discussed the possibility of deferring the determination of the application for a period of 90 days to give sufficient time for further discussions with the applicant in respect of the proposed site at the Leominster Enterprise Park. The Democratic Services Officer advised Members that they could adjourn the debate for a period of time in accordance with paragraph 4.1.16.24 of the Council's Constitution.

Councillor WLS Bowen was given the opportunity to close the debate. He reiterated his opening remarks and made additional comments, including:

- There was no intention to move the entire fire station to Leominster.
- The fire service was greatly appreciated by the residents of Kingsland.
- The proposed screening would take a number of years to mature.

A motion to adjourn the debate for 90 days was lost. A vote was therefore taken on the substantive motion to refuse the application due to it being contrary to Unitary Development Plan Policies HBA6 and LA2. Neither the Head of Neighbourhood Planning nor the Locum Lawyer, representing the Monitoring Officer, had requested a further information report, but this motion was also lost. A third motion to approve the application in accordance with the Officer's recommendation was then put to the vote and the resolution, as set out below, was agreed.

## **RESOLVED**

**That planning permission be granted subject to the following conditions:**

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. C01 Samples of external materials**

4. **G09 Details of Boundary treatments**
5. **G10 Landscaping scheme**
6. **G11 Landscaping scheme - implementation**
7. **I33 External lighting**
8. **E01 Site investigation - archaeology**
9. **L01 Foul/surface water drainage**
10. **L02 No surface water to connect to public system**
11. **L03 No drainage run-off to public system**
12. **Prior to commencement of the development, a habitat protection and enhancement scheme must be submitted to and approved in writing by the local planning authority, and the scheme shall be implemented as approved.**

**Reason: To comply with policies NC7, NC8 and NC9 within Herefordshire's Unitary Development Plan in relation to Nature Conservation and Biodiversity and to meet the requirements of PPS9 Biodiversity and Geological Conservation and the NERC Act 2006**

#### **INFORMATIVES:**

1. **N11A Wildlife and Countryside Act 1981 (as amended) - Birds**
2. **N11C General**
- 3 **Reasons for granting of planning permission.**

**The proposal is for improved fire and accident training facilities for fire and rescue workers who cover the North Herefordshire Area in accordance with the Hereford and Worcester Fire Service proximity of strategic training buildings data map supplied by the applicants**

**The sequential test in relationship to site selection is considered satisfactory, the applicants having adequately demonstrated why the development should be located adjacent to the existing Kingsland Fire Station.**

**Whilst it is acknowledged that the applicants have submitted amended plans indicating improved landscaping mitigation and with suitably worded conditions attached to any approval notice issued on balance the proposed development is considered acceptable in consideration of landscape/biodiversity impact.**

**However the site is located within the Kingsland Conservation Area, to which it is considered that the development will have a negative impact upon and therefore not considered to be in accordance with Policy HBA6: Development within Conservation Areas, of the Herefordshire Unitary Development Plan.**

**Within close proximity to the site are two listed buildings, (One Grade II\* and the other Grade II), in consideration of the separation distance from the site and additional landscape mitigation the proposed development is considered acceptable in consideration of the setting of these listed buildings. The proposed development is also considered acceptable in relationship to the setting of other listed buildings within the vicinity of the site and this includes the setting of Kingsland Castle.**

**The proposed development in consideration of residential amenity and privacy is considered acceptable, as well as public highway issues in consideration of the Fire Station's location.**

**In consideration of the need to provide adequate training facilities for Fire and Rescue workers within the North Herefordshire area and the sequential test in relationship to the site selection and overall impact on the surrounding landscape, historic environment, and consideration to environmental health issues, on balance the proposed development is considered acceptable. Whilst explicitly not considered to be in accordance with Policy HBA6 of the Herefordshire Unitary Development Plan, it is considered that material considerations identified above outweigh the requirements of the historic environment in relationship to the Conservation Area, the proposal therefore is considered to be in accordance with other policies of the said Plan and the National Planning Policy Framework.**

**Key Herefordshire Unitary Development Plan Policies are considered to be Policies S1, S11, DR1, DR2, DR3, DR4, DR13, E10, HBA4, HBA6, LA2, NC1 and CF1.**

**175. S120210F - CASTLE LODGE HOTEL, GREEN COURT, WILTON, HEREFORDSHIRE, HR9 6AD**

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet. He advised Members that two further letters of objection had been received since the update had been produced, these covered issues already previously raised including concerns in respect of the junction onto the B4260, as well as car parking and landscaping concerns. He advised Members that the application had previously been refused by the Planning Committee and the decision upheld at a planning appeal. He gave further details in respect of the appeal outcome, noting that the inspector had been satisfied with the car parking provision and further satisfied that there would be no impact on the neighbours' amenity as a result of the application. The inspector did however have concern in respect of the junction onto the B4260 and had noted that the traffic generation figures provided dated back to 2005.

In accordance with the criteria for public speaking, Mr Deegan, speaking on behalf of the neighbouring residents, spoke in objection to the application and Mr Eacock, the applicant's agent, spoke in support.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor JA Hyde, the local ward member, commented on a number of issues, including:

- The application had previously been before the Southern Area Planning Sub-Committee and the Planning Committee and had been refused on both occasions.
- The inspector had upheld the previous decision of the Planning Committee.

- The current application was identical except for the addition of five parking spaces.
- The junction onto the B4260 was in close proximity to a busy roundabout and busy 24 hour garage.
- Even with major improvements to the lane the junction would not be safe for access and egress.
- The narrow lane was also used to access Wilton Castle.
- The Parish Council also objected to the application.
- If the condition was removed it could result in a different type of restaurant than the service currently offered by the Castle Lodge.

The debate was opened with a Member noted that the report did not contain the full figures in respect of the traffic survey. He added that the Traffic Manager's comments at paragraph 4.2 of the report were noted but requested that the application be deferred for further information. It was further noted that the Traffic Manager's comments solely related to the car parking provision. However the primary concern was of the access onto the B4260. In summing up it was noted that the concerns raised had not changed since the application was previously refused in January 2011.

Members felt that there was a need to listen to the local residents in respect of Highway concerns. It was felt that the people who lived in the vicinity would know the issues with the access. It was noted that the B4260 had a 40 mph limit, and that vehicles came off the Wilton roundabout at high speeds.

Further reference was made to the issue of visibility from the junction and it was felt that there was a genuine safety concern if the application was granted. One Member of the Committee who had declared a personal interest as he lived near the site echoed these concerns and suggested that the speed limit in the area should be reduced to 30 mph. He added that if double yellow lines were requested on the narrow lane there would have to be a consultation period which could take a significant period of time.

Another Member of the Committee spoke in objection to the application and was of the opinion that it should be refused. It was further noted that the application would result in a negative impact on the amenity of the neighbouring residents and that as previously referred to the access was not safe. Concern was expressed that the traffic manager's comments in relation to the application had concentrated solely on the car parking aspect.

In response to a question, the Principal Planning Officer advised Members that there had been no breach of conditions on the site as the planning permission had not presently been implemented.

Members discussed the possibility of deferring consideration of the application to await further comments from the traffic manager as well as gathering further technical evidence in respect of the access. The Democratic Services Officer advised Members that they could adjourn the debate for a period of time in accordance with paragraph 4.1.16.24 of the Council's Constitution.

The Head of Neighbourhood Planning advised the Committee that there had been objections from the Parish Council and the local residents when the application was initially approved in 2006 and that the visibility issues had not changed since that approval. He added that the inspector had been satisfied with the impact on the amenity of the neighbouring residents as well as the parking provision however the inspector had raised concerns in respect of the visibility and noted that the traffic survey had been conducted in 2005. The current application was however accompanied by a more recent

traffic survey and had not resulted in an objection from the Highway's Agency or the Traffic Manager.

Councillor JA Hyde was given the opportunity to close the debate. She reiterated her opening remarks and made additional comments, including:

- The visibility issues had been raised by local residents and the Parish Council as far back as the initial application in 2006.
- Nothing had changed since the previous application had been refused.

A motion to defer the determination of the application was lost.

The substantive motion, to refuse the application, was then discussed. In response to a question regarding the reasons for the refusal, the Committee agreed that the concerns raised in January 2011 still remained. It was also requested that an additional reason for refusal be listed as Members were of the opinion that the application was contrary to UDP Policy T8. This motion was moved and seconded and then put to the vote.

## **RESOLVED**

**THAT subject to no further objections raising additional planning considerations being raised by the end of the consultation period, the planning permission be refused for the following reason:**

- 1. The local planning authority considers that conditions 13 and 16 of planning permission SE/102971/F (10 January 2011) continue to serve a useful planning purpose. The removal of these conditions would allow the operation of two separate businesses, with a concomitant increase in traffic upon the adjoining lane and an increased risk of indiscriminate parking upon it. Given the proximity of the site to the strategic road network and the inadequacy of the junction onto the B4260, the local planning authority considers the conditions essential in maintaining both highway safety and the residential amenity of local residents. The application is thus contrary to Policies DR2, DR3 and T8 of the Herefordshire Unitary Development Plan 2007.**

### **176. N113558F - THE RHYSE FARM, LYONSHALL, KINGTON, HEREFORDSHIRE, HR5 3LX**

The Principal Planning Officer gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor RJ Phillips, the local ward member, commented on a number of issues, including:

- The Parish Council had objected to the application as they would have preferred a single application covering the three sheds rather than three separate applications.
- It was disappointing that the Parish Council had not taken up the option to address the Committee.
- The Parish Council had been working on a broiler chicken policy which would form part of the neighbourhood plan which could then be considered as a material planning consideration.
- The application was a straightforward application to extend a chicken shed.

The Committee discussed the application and were broadly in support of it. Some Members voiced their concerns in respect of intensive chicken farming but were advised that this was not a material planning consideration.

In response to a question, the Principal Planning Officer advised the Committee that an environmental impact assessment had not been required for this application but if the remaining two smaller chicken sheds were extended an assessment may be required due to the cumulative impact.

Councillor RJ Phillips was given the opportunity to close the debate. He reiterated his opening remarks.

## **RESOLVED**

**That planning permission be granted subject to the following conditions:**

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans**
- 3. C02 Matching external materials (extension)**
- 4. G02 Retention of trees and hedgerows**
- 5. G10 Landscaping scheme**
- 6. G11 Landscaping scheme - implementation**
- 7. Prior to any development on site full details will be submitted and approved in writing by the local planning authority with regards to a habitat protection and enhancement scheme for the adjacent stream corridor. Detail will include a timetable for the approved works.**

**Reason: In consideration of biodiversity and to comply with Policies NC1 and NC8 of the Herefordshire Unitary Development Plan.**

## **INFORMATIVE:**

- 1. Reasons for Granting Planning Permission:**

**The proposed development refers to an increase in overall floor space to one of five intensive poultry sheds and a consequential increase in bird numbers that is considered acceptable in consideration of the cumulative impact of the proposed development in relationship to the existing intensive poultry business on site and the surrounding landscape and environment, with suitable worded conditions attached to any approval notice issued with regards to landscape and biodiversity enhancement. The proposed development is considered acceptable in relationship to public highway issues and residential amenity and privacy. A screening opinion under Environmental Impact Regulations dated March 5th 2012 established that a Environmental Statement was not required to accompany any formal application for the proposed development.**

**With the above taken into consideration including objections received, the proposed development, with no adverse responses from any of the statutory consultees, is considered to be in accordance with policies of the**

**Herefordshire Unitary Development Plan, the key policies of which were Policies S1, DR1, DR2, DR3, DR4, E16, LA2 and NC1. The proposal also considered to be in accordance with the recently introduced National Planning Policy Framework.**

**177. N112348F - MOONFIELDS, ADJACENT TO WOODBINE COTTAGE, OCLE PYCHARD, HEREFORD HR1 3RE**

The Development Supervisor gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with the criteria for public speaking, Mr Field, speaking on behalf of Ocle Pychard Parish Council, and Mr Calvert, a neighbouring resident both spoke in objection to the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillors A Seldon and JG Lester, the local ward members, commented on a number of issues, including:

- The crux of the application was whether the rights of travelling families outweighed previous planning decisions on the site.
- The site was not suitable for any type of residential development due to flood risk and water drainage issues.
- The local infrastructure could not support a settlement outside of the settlement boundary.
- There were also highway concerns in respect of the site.
- It would be difficult to impose and enforce a condition limiting the number of vehicles the family could have on the site.

Members were of the opinion that it would be difficult to make a judgement on visual impact and the drainage issues referred to by the local members without visiting the site. They therefore proposed a site inspection based on the criteria for holding a site inspection as set out in the Council's constitution.

**RESOLVED**

**THAT the determination of the application be deferred pending a site inspection on the following grounds:**

- 1. The character or appearance of the development itself is a fundamental planning consideration.**
- 2. The setting and surroundings are fundamental to the determination or to the conditions being considered, and cannot reasonably be made without visiting the site in question.**

**178. S113542F - WESTHIDE, HEREFORDSHIRE, HR1 3RQ**

The Development Supervisor gave a presentation on the application and updates / additional representations received following the publication of the agenda were provided in the update sheet.

In accordance with the criteria for public speaking, Mr Barber, speaking on behalf of Withington Group Parish Council, and Dr Scotcher, a neighbouring resident both spoke in objection to the application.

In accordance with paragraph 4.8.2.2 of the Council's Constitution, Councillor DW Greenow, the local ward member, commented on a number of issues, including:

- The application had caused concern to the residents of Westhide.
- The proposed route of the track went across ancient meadows.
- Amey had undertaken a survey which had shown evidence of a moat across the field in the 1800's.
- There had been a number of developments at the farm over the previous years.
- The proposed route was 4 feet above the bridleway so vehicle lights shone through the window of the objector's dwelling.
- There was also visibility into the garden and swimming pool of the objector.
- The application should be refused as it was contrary to UDP Policies DR1 and DR3

The Committee felt that it would be difficult to determine the application without visiting the site. They therefore agreed to visit the site based on the criteria for holding a site inspection as set out in the Council's constitution.

#### **RESOLVED**

**THAT the determination of the application be deferred pending a site inspection on the following ground:**

1. **The setting and surroundings are fundamental to the determination or to the conditions being considered, and cannot reasonably be made without visiting the site in question.**

#### **179. DATE OF NEXT MEETING**

The Planning Committee noted the date of the next meeting.

#### **APPENDIX 1 - SCHEDULE OF COMMITTEE UPDATES**

The meeting ended at 12.48 pm

**CHAIRMAN**



# PLANNING COMMITTEE

25 April 2012

## Schedule of Committee Updates/Additional Representations

**Note:** The following schedule represents a summary of the additional representations received following the publication of the agenda and received up to midday on the day before the Committee meeting where they raise new and relevant material planning considerations.

**6 N113363/F- DEMOLITION OF GALVANISED DRILL TOWER & CONCRETE BASE, REMOVAL OF METAL FENCE, ERECTION OF NEW GALVANISED STEEL FENCE, CONSTRUCTION OF NEW KERBED AREA. CONSTRUCTION OF TRAINING TOWER CONSISTING OF THREE FRAMED STOREYS AND ROOF. CONSTRUCTION OF NEW METAL CLAD BUILDING TO HOUSE BREATHING APPARATUS FACILITIES ACCOMMODATION FOR TRAINING CAGE AND FOR AT KINGSLAND FIRE STATION, ARBOUR LANE, KINGSLAND, HEREFORDSHIRE, HR6 9RZ**

**For: Mr Hay per Mr Malcolm Hay, Headquarters, 2 Kings Court, Charles Hastings Way, Worcester, WR5 1JR**

### ADDITIONAL REPRESENTATIONS

Two letters of objections have been received on issues already covered within the report.

### OFFICER COMMENTS

Paragraph 2.1 Removed PPS and insert National Planning Policy Framework.

### NO CHANGE TO RECOMMENDATION

**7 S120210/F- REMOVAL OF CONDITIONS 13 AND 16 OF PLANNING PERMISSION DMS/102971/F. TO REMOVE CONDITIONS LINKING THE ANCILLARY USE OF THE RESTAURANT TO THE HOTEL AT CASTLE LODGE HOTEL, GREEN COURT, WILTON, HEREFORDSHIRE, HR9 6AD**

**For: Mr C Felices per Mr Bernard Eacock, 1 Fine Street, Peterchurch, Herefordshire, HR2 0SN**

**ADDITIONAL REPRESENTATIONS**

The applicant's Transport Consultant has responded with regard to representations received relating to the Transport Statement (TS). The following main points are raised:

- The Highways Agency (HA) have assessed the hotel and barn restaurant separately and have no objections
- The Traffic Manager maintains that improvements are needed to the junction, securing parking spaces on the application site. 59 spaces for barn restaurant accepted, together with 16 reserved for use of Castle Lodge Hotel patrons. A total provision of 72 spaces. (This is incorporated within the proposal)
- Methodology used in Transport Statement, that follows TRICS Good Practice Guidance 2011, is not queried by either Highways Agency or Council's Traffic Manager
- HA has accepted 412 extra trips at Wilton roundabout
- Junction onto B4260 assessed for both network peak hours 17.00 to 18.00 and restaurant peak hours, indicate zero queuing and minimal delays to exit.

**NO CHANGE TO RECOMMENDATION**



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>16 MAY 2012</b>
<b>TITLE OF REPORT:</b>	<p><b>N112348/F- CHANGE OF USE OF LAND FROM AGRICULTURAL TO A ONE FAMILY TRAVELLER SITE WITH SITING OF 2 MOBILE HOMES AND 2 TOURING CARAVANS, SHED, AND REDESIGNED ACCESS AT MOONFIELDS, ADJACENT TO WOODBINE COTTAGE, OCLE PYCHARD, HEREFORD HR1 3RE</b></p> <p><b>For: Mr Johns per Mr David &amp; Michael Johns, 19 Withies Close, Withington, Hereford, HR1 3PS</b></p>
<b>WEBSITE LINK:</b>	<a href="http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=112348&amp;NoSearch=True">http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=112348&amp;NoSearch=True</a>

**Date Received: 23 August 2011**      **Ward: Bromyard**

**Grid Ref: 359011,246462**

**Expiry Date: 18 October 2011**

Local Members: Cllr A Seldon and Cllr JG Lester

### Introduction

At the Committee meeting on 25 April 2012 Members raised a query regarding flood risk and requested a site visit which took place on 15 May 2012. Since the meeting both the Environment Agency and Welsh Water have been consulted and the following report has been updated in Paragraphs 2.2, 4, and 6.22 to 6.26.

### **1. Site Description and Proposal**

- 1.1 The site is an L-shaped parcel of land located on the western side of the C1131 road which is the main route through Ocle Pychard. Ocle Pychard is a small hamlet of scattered ribbon development lying to the south of the Burley Gate roundabout between the A465 and A417 roads. This part of Ocle Pychard comprises the small housing development of Holme Oaks and some detached houses. The southerly house is Woodbine Cottage which is surrounded by the application site to the west and south. The application site is bounded to the south by a small wood and to the west by land on which the sewerage treatment plant serving Holme Oaks is located. It is bounded to the east by the C1131 road. The application site measures approximately 0.38 hectares, and is generally flat with a slight slope down to the south-west corner where there is a small pond. There is a protected copper beech tree near the northern boundary and the site is well screened from public view by mature trees and hedges. It was last used for the stabling and grazing of horses before becoming vacant.
- 1.2 The application is to change the use of the land to a one family traveller site with two mobile homes, two touring caravans, a shed, and a redesigned access. The application is part retrospective, with the mobile homes already in situ and occupied. The site is owned by the applicants and is not an agricultural holding. Some pheasant rearing sheds have been placed on the land but whilst they are shown on the submitted layout plan they do not require

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Further information on the subject of this report is available from Sandy Kinnersley on 01432 261933

planning permission due to their temporary nature as they are not attached to the ground and are capable of being moved around the site.

- 1.3 The proposed layout shows the two static caravans where they are already located, immediately south of the garden to Woodbine Cottage, with one touring caravan adjacent to Static 2 (the western one). The location of the second touring caravan is not shown. The shed is to be located to the eastern side of the southern boundary of the site, fairly close to the road. The pheasant rearing pens are shown positioned close to the pond. The area between the two static caravans has been laid to stone to provide a parking area for two vehicles.

## 2. Policies

### 2.1 National Policy and Guidance

ODPM Local Authorities and Gypsies and Travellers Guide to Responsibilities and Powers February 2006

DCLG Designing Gypsy and Traveller Sites Good Practice Guide May 2008

DCLG Planning Policy for Traveller Sites effective 27 March 2012

DCLG National Planning Policy Framework effective 27 March 2012

### 2.2 Local Guidance

Local Development Framework Strategic Flood Risk Assessment for Herefordshire 3<sup>rd</sup> Edition dated 25 March 2009

### 2.3 Herefordshire Unitary Development Plan (adopted March 2007)

S1	-	Sustainable development
S2	-	Development requirements
DR1	-	Design
DR2	-	Land use and activity
DR3	-	Movement
DR4	-	Environment
H7	-	Housing in the countryside outside settlements
H12	-	Gypsies and other travellers
H13	-	Sustainable residential design
T8	-	Road hierarchy
LA2	-	Landscape character and areas least resilient to change
LA3	-	Setting of settlements
LA6	-	Landscaping schemes

## 3. Planning History

3.1	MH88/2736	Erection of 2 dwellings	-	Withdrawn
	MH89/1672	Erection of 8 dwellings	-	Outline planning permission refused Appeal dismissed 9.4.90
	MH96/1214	Erection of 2 dwellings	-	Refused 10.6.97
	MH99/3015	Erection of 5 dwellings	-	Outline planning permission granted 16.1.90, but lapsed 16.1.95
	DCNC2003/3569/F	Stable block (retrospective)	-	Approved 20.1.04

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Further information on the subject of this report is available from Sandy Kinnersley on 01432 261933

#### 4. Consultation Summary

##### Internal Consultees

- 4.1 Senior Landscape Officer – no objection.
- 4.2 Transportation Manager – proposed alterations to the access will provide sufficient visibility to allow the access to be used safely – planning conditions recommended.
- 4.3 County Land Agent – no comments.
- 4.4 Environmental Protection Manager – the parents are known to be of Ethnic (Romany) Gypsy Status as are their children regardless of how they live and work. Their language, culture and traditions will not have changed a great deal because they have lived in bricks and mortar during their childhood.
- 4.5 Amey (land drainage) – comments awaited

##### External Agencies

- 4.6 Environment Agency – Flood Zone 1 and no records of the application site flooding so there doesn't appear to be any risk of flooding
- 4.7 Welsh Water – they do have a record of a foul system serving Holme Oaks but do not have any record of flooding associated with it

#### 5. Representations

- 5.1 Ocle Pychard Group Parish Council – In recent years there have been a number of applications for development of this site. All have been turned down, quite justifiably, on the grounds that the land is liable to flood and that there are serious on-going problems with sewerage and drainage. The current application is from two single young men who do not necessarily need to have their own caravans on this specific piece of land.

Mr Johns Senior, who owns the land, has been in direct contact with the Parish Council over the last 12 months, asking for advice as to what he could use it for. He was fully aware of the previous planning history of the site, and knew that development had been refused on several occasions. He was advised to get in touch with the Planning Department as they had the final word when it came to projects like this. It is doubtful whether he was advised to use the land for a Traveller's site.

A planning application by Mr Johns in 2004 was refused, and other applications have been turned down since then. Since those refusals the characteristics of the site have not changed.

As already mentioned, drainage is a serious cause for concern and there is correspondence from Welsh Water to this effect dated 1971. There is also a letter on file from Welsh Water in 1989 listing continuing problems with the sewerage and drainage at Holme Oaks.

Properties in Holme Oaks are occupied by a wide variety of people including families with young children who are restricted as to where they can play due to the lack of local facilities. Excess traffic has become an issue, particularly with two businesses being run from the site, and the entrance to the site is regarded as an avoidable hazard by residents.

It is stated that 'It is thought that only the tops of the mobile homes may be visible from Woodbine Cottage'. This suggests that the view from Woodbine Cottage will be adversely affected in some way.

Although unfortunate, and despite encouragement to the contrary, many local residents are reluctant to object in writing as they fear there could be reprisals. They have given their views verbally to the Parish Council and wish us to convey the concerns that they have. The number of objections on file will not, therefore, provide an accurate guide to local opinions.

Holme Oaks is outside the village planning envelope, as laid down in the Herefordshire Development Plan. Many people in the area have had planning refused for just this reason. If this application is allowed it would be seen as grossly unfair.

This is a small and closely knit community, so the right decision needs to be made for correct and un-biased reasons and needs to be seen to be fair for the rest of the community. There are unused pitches available elsewhere in the County, complete with hard-standing and all the usual utilities. There is no reason why new development should be allowed on a site that is likely to flood on a regular basis.

It has been suggested that the opinions of local people in this matter are of only minor importance. Following a meeting on the 24<sup>th</sup> of September Bill Wiggin, MP, referred to the Localism Bill currently going through Parliament and said 'The Bill will increase the powers of local people and local councils rather than simply maintain them'. He went on to confirm that residents and parish councils will still be able to have an impact on planning decisions.

In this case both the Parish Council and the local residents have said 'No' to this application. You are strongly urged to refuse it.

5.2 5 letters of objection have been received which raise the following concerns:

- the plans are not to scale, unclear, and may not show the road accurately
- residential development in the countryside contrary to the earlier Inspector's decision
- development commenced without planning permission
- risk to highway safety due to poor access arrangements and increased traffic movements
- adequacy of the septic tank
- number of vehicles on the site
- a brick built structure on site which is not included in the application
- pheasant rearing will be a source of noise and may attract vermin
- potential for flooding
- possible further development of the site in the future
- business use of the site
- possible future loss of bus service and local shop
- suitability of the site to bring up children
- empty plots on established traveller sites

5.3 The consultation responses can be viewed on the Council's website by using the following link:-

[www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx](http://www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx)

Internet access is available at the Council's Customer Service Centres:-

[www.herefordshire.gov.uk/community\\_and\\_living/consumer\\_advice/41840.asp](http://www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp)

## 6. Officer's Appraisal

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Further information on the subject of this report is available from Sandy Kinnersley on 01432 261933

- 6.1 The Herefordshire Unitary Development Plan (UDP) sets out a settlement hierarchy for housing allocation purposes for Hereford, the market towns, main villages and smaller settlements. Residential development outside these settlements and therefore in open countryside falls to be considered under Policy H7. Policy H7 provides that residential development must be strictly controlled to protect the landscape and the wider environment and will therefore not be permitted unless it is clearly necessary in connection with agriculture or forestry or falls in one of six other categories. Category 6 of Policy H7 is a site providing for the needs of gypsies or other travellers in accordance with Policy H12. This application is not related to agriculture or forestry and so the first issue for consideration is whether the applicants meet the definition of gypsies and travellers provided in the DCLG Planning Policy for Traveller Sites.
- 6.2 The applicants are brothers from an established traveller family which for many generations lived a nomadic life making a living through farm work but which became more settled due to the increasing difficulty in finding stopping places and work, and the increasing costs of moving around. Evidence of their traveller status was provided in the form of a cutting from a magazine detailing family members in a photograph taken in a hop yard.
- 6.3 The Council's Traveller Liaison Officer has confirmed that the family is of Ethnic Gypsy Status, and that the applicants will have been brought up in the traditional culture and way of life despite living in a house through their childhood. Four years ago they decided to live a more traditional nomadic lifestyle and have since then lived in caravans on farms where they have provided casual labour. They have both now established their own businesses, one in Burley Gate and the other working on properties in the local area. They no longer need to travel for work but wish to continue living in caravans and to provide a more settled lifestyle to raise their families. The DCLG Planning Policy for Traveller Sites recognises that some gypsies and travellers will cease travelling either temporarily or permanently and includes such people within its definition.
- 6.4 The site will be occupied by the two brothers and their partners, who wish to be treated as a single group as they feel it is vital that they stay together in view of their very close relationship and in order to provide mutual support. They have chosen this application site because it is their own land, it is secure and private which they consider makes it a suitable place to bring up children, they have work in the area, and they have a wider support network of family and friends in the locality. They have not sought alternative sites for these reasons and because they feel pitches on other sites should be available for travellers who do not own land. None of the occupiers has any stated medical or educational need.
- 6.5 The application is for two static caravans and two touring caravans, enabling each applicant to travel in the future. No permanent buildings are proposed although the application does include a shed and the submitted site layout drawing shows some pheasant rearing sheds. Both applicants and one of the partners have work in the area and the DCLG Planning Policy for Traveller Sites encourages Local Planning Authorities to provide a settled base that reduces the need for long distance travelling and possible environmental damage caused by unauthorised encampment. The application does not propose any business activity taking place on the land.
- 6.6 On the circumstances as stated above it is accepted that the applicants are travellers under the definition in DCLG Planning Policy for Travellers and the application must therefore be assessed under Policies H7 and H12.

6.7 Need

Policy H7(6) makes site for gypsies and travellers an exception where there is a need for additional pitches. The Gypsy and Traveller Accommodation Assessment (July 2008) identified a need for 109 pitches by 2017 of which 83 are to be delivered by 2012.

Herefordshire Council's Annual Monitoring Report 2009 – 2010 (published February 2011) identifies that 27 pitches had been delivered. Since March 2010 further pitches have been delivered reducing the need to 44. There is accordingly a demonstrable need for more pitches to be provided.

#### 6.8 Guidance

The DCLG Planning Policy for Traveller Sites aims to facilitate the traditional and nomadic way of life of travellers whilst respecting the interests of the settled community. It promotes more private traveller site provision in appropriate locations but having due regard to access to services and the protection of the local amenity and environment. When assessing the

suitability of sites in rural or semi-rural settings Local Planning Authorities should ensure that the scale of such sites does not dominate the nearest settled community and does not place an undue pressure on local infrastructure. Sites should be well-planned with adequate landscaping and play areas, and avoid creating an enclosed site which could appear to isolate the occupants from the rest of the community.

6.9 Para 14 of the National Planning Policy Framework provides that there will be a presumption in favour of sustainable development. This means that planning permission should be granted unless there are significant and demonstrable adverse impacts.

#### 6.10 Material Considerations

Policy H12 sets out four criteria which are the main issues for consideration – distance from local services and facilities; size and design; impact on the character and amenity of the landscape; and appropriate levels of residential amenity. This approach is consistent with guidance in the DCLG Planning Policy for Travellers, but other material considerations should also be taken into consideration. Other material considerations in this case are flood risk and highway safety.

#### 6.11 Distance from Local Services

The requirement to be within reasonable distance of local services and facilities accords with UDP Policy S1 which seeks to reduce the need to travel, or to enable people to move safely by modes other than the private car. Furthermore Policy DR2 encourages development to be located to provide a choice of travel modes, and Policy DR4 supports good links to public transport. The application site is located only 380 metres from the A465 where there is a bus stop for the Hereford-Bromyard route providing good access to both towns which are approximately 10 km away. Burley Gate, a smaller settlement with a village Post Office/shop, village hall, and a primary school, is approximately 1.4km from the site, and other shops can be found at Withington, a main village (4.5km). Main villages have been so designated to reflect their potential for providing reasonable public transport links, locations for employment and other services, and a significant level of community facilities. The site is therefore within a reasonable distance of local services and facilities and offers alternative forms of travel to the car, and is therefore considered to meet the requirements of Policy H12(1).

#### 6.12 Size and Design

The Designing Gypsy and Traveller Sites Good Practice Guide states that as a general guide an average family pitch should be capable of accommodating a static caravan and touring caravan, an amenity building, parking spaces for two vehicles, and a small garden area.

6.13 The application site measures approximately 0.38 hectares and the proposal is that it should accommodate two family pitches but although it falls short of the standards set out in the Good Practice Guide it could accommodate more parking spaces and a second shed. The proposed



layout of the site seems to offer a balance between open amenity space and areas for caravans and vehicles to be located. Positioning the two static caravans close to the southern boundary of Woodbine Cottage means that they are not overlooked by any other properties, and due to their orientation only the roofs will be seen from the first floor windows of Woodbine Cottage. The caravans are only visible from the road through a mature hedge, with the limited views into the site being predominantly that of a small field. The number of caravans on the site and their location can be controlled by a planning condition.

6.14 The site is an adequate size for two pitches and the associated touring caravans and shed, and therefore meets the requirements of Policy H12(2).

6.15 Impact on the Character and Amenity of the Landscape

The designated landscape character of the area is Principal Settled Farmlands, with scattered farms, relic commons, and small villages and hamlets with a notably domestic character alongside hop fields, orchards, grazed pastures, and arable fields. The application site is on the edge of existing residential development and whilst its southern boundary adjoins a small woodland and there are mature hedges to the west and east, its character is closely associated with the domestic setting of the adjoining properties. There are no long distance public views into the site which is well-screened from the adjoining highway. Although the application includes a proposal to alter the existing access, a hedge will be retained along the road frontage to maintain the rural appearance of the site and to provide some privacy and its retention should be required by a planning condition. The residential occupation of the site does change its character but it still accords with the general theme of Principal Settled Farmlands and has no demonstrable landscape impact. The Council's Senior Landscape Officer has raised no objection and the application therefore meets the requirements of Policy H12(3).

6.16 Residential Amenity

The existing boundary hedges and new fencing provides the site with an acceptable level of privacy and security necessary for a residential use. There is sufficient space to provide play areas when required without compromising the open character of the land. There is an existing storage facility in the previously approved stable building, but an additional shed is proposed in the south-east corner, an area which is barely visible from outside the site. The size, design, precise position and use of this building has not been specified but can be controlled by a planning condition and the site can therefore accommodate the required storage facilities without compromising the overall character.

6.17 In general terms locating small residential gypsy sites near to conventional housing is encouraged as a way of promoting integration with the settled community. However visual and acoustic amenity must be safeguarded for all including overlooking considerations.

6.18 Most properties in Holme Oaks are a short distance away from the application site and have no views into the site. The flats adjoin the land to the north, but have no windows overlooking the site. The caravans are located in the southern part of the site and are screened from the flats by trees, hedges, fencing and part of the garden to Woodbine Cottage. The caravans face away from Woodbine Cottage and any movements will be screened from view. The other close dwelling, Holme Copse House, is located the other side of the road and overlooks the northern section of the site but that will remain undeveloped.

6.19 Residents have raised concerns about the possibility of noise, odour and vermin from the pheasant rearing sheds which are shown on the layout plan. The structures do not require planning permission and are outside the control of this application, and the rearing of pheasants is an agricultural activity for which no planning permission would be required. Any

resultant impact in terms of noise, odour, or vermin can be controlled by environmental pollution legislation. This is accordingly not a consideration in determining this application.

- 6.20 Residents have also raised concerns regarding the potential use of the site for business purposes. No business activity is included in this application, but the number of vehicles to be parked on the land can be controlled by a planning condition.
- 6.21 There is accordingly not considered to be any significant impact on residential amenity and the proposal meets the requirements of Policy H12(4).

6.22 Flood Risk

Flood risk is a serious consideration for caravan dwellers. Caravans by their nature are not permanently secured to the ground and are accordingly more susceptible to flood damage.

- 6.23 Floods can happen anywhere and at any time. The Environment Agency is the foremost source of flood risk identification and has assessed the level of risk across the UK and allocated three zones which are based on the probability of flooding resulting from sources such as rivers, coasts, surface water, sewers, groundwater and reservoirs – Flood Zones 1, 2, and 3. The application site falls within Flood Zone 1 and as it is not located within a floodplain or close to the coast or a reservoir, and the extent of aquifers in Herefordshire is limited so groundwater flooding is not expected to be a significant issue, the risk of flooding on this site is minimal. Flood Zone 1 is defined as land with a low probability of flooding, less than 1 in 1000 years, and where all land uses are appropriate including those classed as highly vulnerable such as traveller's sites. The Environment Agency has been consulted and has no record of flooding on this site.

- 6.24 The nearest watercourse is a small brook which runs some 150 metres to the south of the site. The land slopes gently down towards the brook. Excess surface water from the site is likely to drain towards the brook and the brook will cause no threat of flooding to the site itself.

- 6.25 The NPPF aims to steer new development to areas with the lowest probability of flooding, and even within Flood Zone 1 it requires that within the site the most vulnerable development should be located in areas of lowest flood risk and that it should be appropriately flood resistant. The application site is within Flood Zone 1 and there is no record of it having flooded in the past. The risk of flooding is minimal. The land slopes gradually down towards the south-eastern corner of the site where there is a small pond which will absorb any excess water. The pond was noted to have plenty of spare capacity even after recent heavy rainfall. The caravans are located in the higher land and close to the access and are therefore unlikely to be affected but would have a safe escape route should the land flood. Any new hard surfaces are to be porous and should not result in increased surface water. The development accordingly meets the guidance set out in the NPPF and the minimal risk of flooding is not sufficient to justify refusing to grant planning permission.

- 6.26 Photographic evidence has been provided of the adjoining land flooding in 2007. The 2007 floods were exceptional and no evidence has been provided which suggests that the application site itself was flooded.

6.27 Highway Safety

Highway safety concerns relate to the access and additional vehicular movements. There are two existing accesses into the site. The existing southern access is sub-standard as visibility is poor. The existing northern access will not be changed but the application proposes to improve the visibility splay of the southern access by setting back the gates 5 metres from the edge of the carriageway, widening the access to 5 metres at the gates, and planting a new hedge along the southern boundary set back 2.5 metres. The road at this point is narrow and

serves a low volume of traffic which has to travel at a relatively low speed. The Council's Transportation Manager considers that the proposed improvements will allow the safe operation of the access subject to the details being controlled by planning conditions.

6.28 The additional vehicular movements as a result of two families occupying the site will not have any significant detrimental impact on highway safety. There is concern that higher levels will result from business uses of the site this application is for the residential use only and no evidence of any material business use has been identified. This would be considered separately should that situation arise.

#### 6.29 Other Issues

The two static caravans are linked into an existing septic tank on the site which also serves Woodbine Cottage. Concerns have been raised regarding its capacity and its ability to cope with increased use at time of heavy rain. If planning permission is granted the applicants will need to apply for a site licence and this issue will be addressed by the Environmental Health Officer as part of the licensing process. It is accordingly not a material consideration for this application.

6.30 Objections have also been received regarding a small brick-built structure in the northern part of the site which is not specified in this application. That structure is believed to be an electricity meter cupboard which was erected as development which is permitted without the need for formal planning permission.

#### 6.31 **Conclusion**

Therefore having regard to the applicable national and local planning policies, and having taken all material considerations into account, it is considered that planning permission should be granted subject to conditions relating to the number and location of caravans, details of the proposed shed, limiting the number and parking of vehicles to defined parking areas with a porous surface, and details of the proposed alterations to the access including retention of the proposed relocated front boundary hedge.

### **RECOMMENDATION**

**That planning permission be granted subject to the following conditions:**

- 1. The site shall not be occupied by any person other than gypsies and travellers as defined in DCLG Planning Policy for Travellers.**

**Reason: To accord with the requirements of Policy H7(6) of the Herefordshire Unitary Development Plan.**

- 2. The occupation of the pitches hereby permitted shall be restricted to the owner or tenant of the pitches, their partner, and immediate family defined as children and parents.**

**Reason: To accord with the requirements of Policy H7(6) of the Herefordshire Unitary Development Plan.**

- 3. The permission hereby approved is for no more than two pitches on the site for the permanent siting of no more than two static caravans and two touring caravans on the land. There shall be no more than 1 additional touring caravan on the site at any one time and for no longer than 14 consecutive days and no more than a maximum of 28 days in any calendar year.**

**Reason:** In order to define the terms of the permission and safeguard the amenity of neighbouring residents and the landscape character of the area in accordance with the requirements of Para 26(b) of the DCLG Planning Policy for Travellers.

4. The caravans shall be located as shown on Drawing 1 received 23 August 2011. The position of the second touring caravan and any visiting caravan must be in accordance with a plan which has previously been submitted to and approved in writing by the Local Planning Authority.

**Reason:** In order to define the terms of the permission and safeguard the amenity of neighbouring residents and the landscape character of the area in accordance with the requirements of Policies H13 and LA3 of the Herefordshire Unitary Development Plan.

5. No shed shall be brought onto the site until details of its size, design, and location have been submitted to and agreed in writing with the Local Planning Authority. The shed shall be erected in accordance with the approved details and shall only be used for purposes ancillary to the occupation of the static caravans and for no other purpose.

**Reason:** In order to define the terms of the permission and safeguard the amenity of neighbouring residents and the landscape character of the area in accordance with the requirements of Policies H13 and LA2 of the Herefordshire Unitary Development Plan.

6. There shall be no more than six vehicles parked on the land at any one time.

**Reason:** To safeguard the amenity of neighbouring residents and the landscape character of the area in accordance with the requirements of Policies H13 and LA2 of the Herefordshire Unitary Development Plan.

7. The use hereby permitted shall cease and all caravans, structures, equipment and materials brought onto the land for the purposes of such use shall be removed from the site within 28 days of the date of failure to meet any of the requirements set out in (i) to (iii) below:

(i) Within one calendar month of the date of this permission details shall be submitted in writing of the size, position, and construction of the access, a turning area, the parking area shown on Drawing 1 received on 23 August 2011, and of the creation of a second porous hardstanding in the south-east corner of the site which is to be used for the parking of additional vehicles. The works shall be carried out in accordance with the approved details within 2 calendar months of the details being approved in writing by the Local Planning Authority. No vehicles shall be parked other than in accordance with these approved details.

(ii) Notwithstanding the submitted details the access into the site shall be constructed so that there is clear visibility from a point 0.6 metres above the level of the adjoining carriageway at the centre of the access 2.5 metres from and parallel to the nearest edge of the adjoining carriageway over the entire length of the site frontage. Nothing shall be planted, erected, and/or allowed to grow on the area of the land so formed which would obstruct the visibility described above.

(iii) Within one calendar month details of the species and specification for a hedge along the road frontage shall be submitted in writing to the Local Planning Authority. The hedge shall be planted in accordance with the approved details in the planting season following the date of this permission and shall be retained in

perpetuity.

**Reason:** In the interests of highway safety, and to ensure the hedge is ecologically and environmentally rich and to ensure its permanent retention in the landscape, and to confirm with the requirements of Policies DR3 and LA6 of the Herefordshire Unitary Development Plan.

**INFORMATIVES:**

1. In making this decision, and noting that the development has been implemented, the Local Planning Authority concluded that there is a need for additional private traveller pitches within Herefordshire and that the site does not dominate the nearest settled community or put undue pressure on the infrastructure. It considered that the development is suitably located to access local services and does not have any significant detrimental impact on residential amenity or the amenity of the surrounding area. The Local Planning Authority therefore concludes that the development is in accordance with the following policies of the Herefordshire Unitary Development Plan 2007:-

- S1 Sustainable development
- S2 Development requirements
- DR1 Design
- DR2 Land use and activity
- DR3 Movement
- DR4 Environment
- H7 Housing in the countryside outside settlements
- H12 Gypsies and other travellers
- H13 Sustainable residential design
- T8 Road hierarchy
- LA2 Landscape character and areas resilient to change
- LA3 Settling of settlements
- LA6 Landscaping schemes

2. I38 (N19) Drawing 1 Block Plan Scale 1:500 received 23 August 2011; Drawing 2 Redesigned Access Scale 1:100 received 23 August 2011

3. I05 (HN10)

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** N/112348/F

**SITE ADDRESS :** MOONFIELDS, ADJACENT TO WOODBINE COTTAGE, OCLE PYCHARD, HEREFORD, HR1 3RE

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<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>16 MAY 2012</b>
<b>TITLE OF REPORT:</b>	<b>S113542/F - CONSTRUCTION OF FARM ACCESS ROAD (PART RETROSPECTIVE) AT WESTHIDE, HEREFORDSHIRE, HR1 3RQ</b>  <b>For: Mr Thompson-Coon per Mr Bryan Thomas, The Malthouse, Shobdon, Leominster, Herefordshire, HR6 9NL</b>
<b>WEBSITE LINK:</b>	<a href="http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113542&amp;NoSearch=True">http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113542&amp;NoSearch=True</a>

**Date Received: 16 December 2011**    **Ward: Hagley**

**Grid Ref: 358704,244267**

**Expiry Date: 1 March 2012**

Local Member: Councillor DW Greenow

### Introduction

The following report has been updated to include additional representations received following publication of the previous report, presented to Committee on 25 April 2012. The application was deferred to enable members to make a visit to the site on 15 May 2012.

#### **1. Site Description and Proposal**

- 1.1 The site is a parcel of agricultural land of 1.04 Ha to the North of farm buildings associated with the Westhide Court Farm Estate. It is bordered by the C1131 to the north, The Old School House and St Bartholomew's church to the west, the bridleway WS2 and Poolhead Cottage to the east.
- 1.2 The proposal is for the retention of a new farm access track across the agricultural land to service agricultural buildings on the estate. Initial construction works were commenced on 15<sup>th</sup> October 2011 without prior approval being sort therefore planning permission is required to retain the development.
- 1.3 The applicant was not aware of the prior approval process; they had carried out their own research into the planning requirements for the track. The outcome of which, they concluded, was that the work would be permitted development.

#### **2. Policies**

##### 2.1 National Policy

NPPF    -    National Planning Policy Framework

##### 2.2 Herefordshire Unitary Development Plan

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Further information on the subject of this report is available from «Mark Lane» on «01432 260474»

- DR1 - Design
- DR2 - Land Use and Activity
- DR3 - Movement
- ARCH 1 - Archaeological Assessments & Field Studies

### 3. Planning History

3.1 No relevant planning history

### 4. Consultation Summary

4.1 Transportation: No objection

4.2 Conservation (Landscape & Habitat): The track does not have significant negative impact on the wider landscape character. Due to the track's raised position, in relation to the public highway and bridleway, it has minimal visual impact in the locality other than from adjoining properties.

4.3 Conservation (Historic Buildings): No objection

4.4 Archaeology: The evaluation undertaken by Border Archaeology has indicated that there are no remains of archaeological interest directly within the scope of the track works.

4.5 Public Rights of Way: No objection, but recommends that a condition regarding a 40 metre section of the bridleway WS2 between the proposed track and the road (C1131) is made suitable for the intended use.

### 5. Representations

5.1 Withington Group Parish Council:

"Object to the application on the basis of the following:

1. There is no explanation given for the need for another farm access. The whole (re)development of Westhide Court Farm appears to be being undertaken on a piecemeal basis with no overall plan having been submitted. This is potentially leading to a cumulative impact on surrounding highways by increased traffic generation and noise and disturbance to properties and residents in the village. This has been exacerbated by the (hopefully temporary) closure of the main farm access.
2. There is clearly very little agricultural usage of the farm buildings with stabling appearing to be the main remaining agricultural activity.
3. The access proposed is from a Bridleway and public right of way. There is no indication of the vehicular usage of the proposed access and the likely impact on the users of the bridleway/prow.
4. The existing main farm access from Westhide between Westhide Court and Porch House is adequate for the level of vehicular usage of the farm.
5. A recently converted hop barn is being used for business use. If change of use has been granted, as stated to the Chairman of the Parish Council by the planning officer, what were the agreed access and parking arrangements? Planning application No. SH970188PF for this change of use was recorded as "not determined" according to the file, originally having been recommended for refusal. Any continued use for B1 – Office, is therefore unauthorised, and enforcement action should be pursued.
6. As there are now a significant number of private cars and other vehicles using the bridleway to gain access to this unauthorised use (up to 25 vehicles have been reported as being 'parked'), where a car park has also been provided, this use of the access is



also unauthorised, as is the car park. It is understood that the bridleway was a cul-de-sac until 2011 and not a farm access. It is considered that a planning application should have been submitted for the development of this additional access to the premises. This also brings into doubt as to whether the bridleway can be lawfully used as an access to an unauthorised use.

7. The majority of the additional traffic entering the site is now driving right through the village.
8. The proposed new access runs across the former curtilage of Poolhead Cottage. The status of this land is unknown – for example, was it the subject of change of use to residential curtilage in the past?
9. The positioning of the access will result in vehicles entering and exiting the site having a significant impact on the quiet enjoyment of the dwelling, Upper House, and on other village properties, including Poolhead (notwithstanding its ownership by the applicant). As the access is at a higher level than the dwellings, this will be particularly disturbing through the shining of their lights directly into the living accommodation (Upper House) and through the additional engine noises as vehicles negotiate the turn from the bridleway. Poolhead is also a listed building on which the proposed development will have a negative impact.
10. The route of the proposed access divides a field into two. What is the proposed use of these two smaller fields? There is also a possible archaeological impact on the field as seen from an aerial photograph.
11. Without prejudice to the objection, if planning permission is granted it is considered that the use of the proposed access should be restricted solely for agricultural vehicles linked only to agricultural use of Westhide Court Farm and for no other vehicles generated by non-agricultural vehicles operating on land owned by the applicant but not directly farmed by the applicant.
12. It is requested that the application be referred to the Planning Committee for determination, as there are serious doubts as to the legal status of the present use of the farm and to the status of the bridleway.

## 5.2 The Ramblers Association have submitted the following comments:

There is local concern regarding the surface of the bridleway and the increase in traffic to the farm entrance beyond Pool Head cottage.

## 5.3 Seven letters of objection have been received, in summary:

- The proposal should respect the amenity of existing neighbourhood uses. It would result in a new road that would be above neighbouring gardens effecting amenity.
- The new road would increase traffic in the village.
- The proposed track would affect users of the bridleway.
- The track is unnecessary as there is an existing access to the agricultural buildings via another part of the estate.
- The proposal is retrospective and should be seen in the context of the stealthy development of the site.
- The buildings the track will service have not been used for 18 years it seems unlikely there is any intention to use the buildings for farm use now.
- The land forms part of an unregistered park and garden and should be afforded protection.

## 5.4 The full text of these letters can be inspected at Hereford Customer Services, Franklin House, 4 Commercial Road, Hereford, HR1 2BB, prior to the Committee meeting and on line.

## 6. Officer's Appraisal

### 6.1 The main considerations in this application are:

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Further information on the subject of this report is available from Mark Lane on 01432 260474

- The intended use of the access and its impact on the surrounding dwellings.
- The impact of the proposal on the use of the bridleway the development is accessed from.
- The impact of the proposal on the heritage assets identified within the site.

The application is part-retrospective, as the track has been partly constructed.

- 6.2 Had the prior notification procedure been followed the track would ordinarily be permitted development under class A, Part 6, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995. However as the track is now in place the development cannot be considered under the agricultural notification procedure and therefore full planning permission is required.
- 6.3 There is local concern regarding the intended use of the track not being solely for agricultural vehicles and will be used to access other areas of the estate. In pre application discussion on site the estate manager indicated that the track would only be used by agricultural vehicles that would service a group of agricultural buildings. Additional comments received from the applicant confirm this.
- 6.4 The majority of objections focus upon the use of the estate, the bridleway, an alternative access and the development of the estate without planning permission. These are separate issues not connected with this application for the development of a farm track.
- 6.5 The use of the bridleway WS2 by vehicular traffic has been raised with Public Rights of Way, they have confirmed that if the landowner has granted permission for this use it is not a breach of the highways act and is therefore permitted.
- 6.6 Policy DR2 requires that development does not affect the amenity or continued use of land or buildings. The nearest dwelling to the proposed track is Poolhead cottage which is a holiday let in the ownership of the estate, the track is 35m from the property and 5m from its garden curtilage. The property Upper House referred to in the parish council comments is 38m from the track; its garden is 10m away.
- 6.7 It is considered that the use of the track by agricultural vehicles would not give rise to any significant additional noise or disturbance that would affect the amenity of the local area to the extent that planning permission could reasonably be withheld.
- 6.8 Poolhead Cottage is a listed building which the proposed track passes; the Senior Building Conservation Officer has been consulted and has confirmed no objection to the proposal.
- 6.9 The land in question forms part of the unregistered park and garden at Westhide Court; the Senior Landscape Officer has commented that the track does not have a negative impact in the landscape and a minimal visual impact in the locality.
- 6.10 The Archaeology Officer had identified that there are heritage assets within the site. The application did not provide any detail on the effect the development would have on the archaeological significance and sensitivity of the site. An archaeological field evaluation was carried out by Border Archaeology commissioned by the applicant using a briefing note from Herefordshire Councils archaeology advisor. The evaluation comprised of the excavation of two trial trenches to would provide the required information. That evaluation has now been undertaken and as a consequence there are no archaeological objections to the application.
- 6.11 The use of the field will remain as agriculture or for the grazing of horses; there was no indication of future intensification of the use of the land or buildings during the pre-application discussion.

6.12 The Parish Council has suggested, if approved, a condition should be attached to the permission. The intention of the condition would be to restrict the use of the track to agricultural vehicles used by the applicant on land farmed by the estate. This condition would not be enforceable.

**RECOMMENDATION**

**That planning permission be granted without planning conditions.**

**INFORMATIVE:**

- 1 **In making this decision and noting that the development had been commenced the local planning authority concluded that the development would not harm the visual or residential amenity of the area, would not have an adverse impact on the listed building in the vicinity and does not affect any archaeological interest in the area.**

**The local planning authority concludes that the development is in accordance with the following policies of the Herefordshire Unitary Development Plan 2007.**

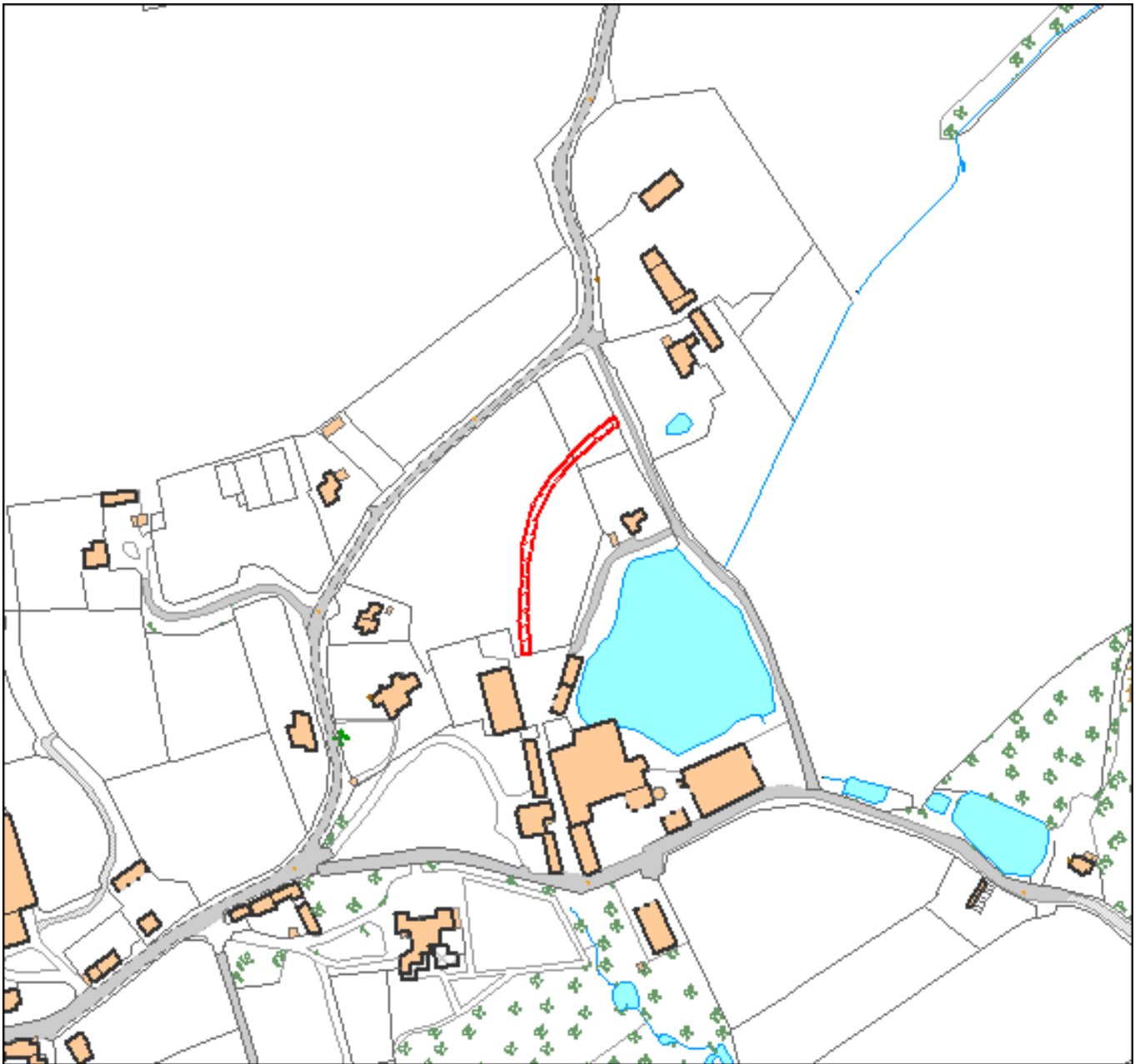
- DR1 – Design**
- DR2 – Land Use and Activity**
- DR3 – Movement**
- ARCH1 – Archaeological Assessments and Field Studies**

Decision: .....

Notes: .....

**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** DMS/113542/F

**SITE ADDRESS :** WESTHIDE, HEREFORDSHIRE, HR1 3RQ

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Further information on the subject of this report is available from Mark Lane on 01432 260474



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>16 MAY 2012</b>
<b>TITLE OF REPORT:</b>	<p><b>S113131/F - ERECTION OF RETIREMENT LIVING HOUSING FOR THE ELDERLY, (CATEGORY II TYPE ACCOMMODATION), COMMUNAL FACILITIES, LANDSCAPING AND CAR PARKING AT VICTORIA HOUSE, 149-153 EIGN STREET, HEREFORD, HR4 0AN</b></p> <p><b>S113132/C - ERECTION OF RETIREMENT LIVING HOUSING FOR THE ELDERLY, (CATEGORY II TYPE ACCOMMODATION), COMMUNAL FACILITIES, LANDSCAPING AND CAR PARKING AT VICTORIA HOUSE, 149-153 EIGN STREET, HEREFORD, HR4 0AN</b></p> <p><b>For: McCarthy &amp; Stone Retirement Lifestyles Ltd per The Planning Bureau Ltd, Hartington House, Hartington Road, Altrincham, Cheshire, WA14 5LX</b></p>
<b>WEBSITE LINK:</b>	<a href="http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113131&amp;NoSearch=True">http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113131&amp;NoSearch=True</a>

**Date Received: 7 November 2011    Ward: St Nicholas**

**Grid Ref: 350503,240048**

**Expiry Date: 29 February 2012**

Local Members: Councillors SM Michael & JD Woodward

## **1. Site Description and Proposal**

- 1.1 The application site lies to the west of Hereford's city centre on the A438 (Eign Street), and at the western edge of Hereford's Conservation Area. The area is characterised by a mix of uses including small-scale independent shops, two large food retailers (Sainsbury's and Aldi), educational (Hereford Art College and Lord Scudamore School) and residential premises (Victoria Court). The road is a busy arterial route into the city and, with residential areas further to the west, serves both local and through traffic.
- 1.2 The site is roughly rectangular in shape with an approximate area of 0.35 hectares. It is bounded to the north by Eign Street, being set back from the road behind a bus lay-by and a brick wall topped by a mature hedge. The southern boundary is shared with Lord Scudamore School and currently comprises a 3 metre high chain-link fence. The residential development of Victoria Court is to the east and the Great Western Social Club at a lower level to the west. There are a number of trees within the site, particularly along the eastern and western boundaries.
- 1.3 The site is currently occupied by Victoria House, which is centrally located with open areas surrounding it. The building was originally constructed in 1912 to provide accommodation for

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Further information on the subject of this report is available from Mr A Banks on 01432 383085

the resident surgeon of the Eye Hospital, and was latterly used as associated office accommodation. The Eye Hospital has since been converted to residential use and is integral to the development to the east known as Victoria Court. The office use has now ceased and Victoria House has been vacant for some time, remaining in the ownership of the Primary Care Trust. The condition of the building and its curtilage are deteriorating as a consequence of its vacancy and the surrounding grounds have become overgrown and untidy with the tarmac area immediately in front used indiscriminately by the public for parking. The building is, however, an attractive two storey structure, of brick construction with a slate hipped roof. It is well detailed, presumably to signify its importance locally, with dressed stone window surrounds and timber and render above gabled projections on the front elevation addressing Eign Street.

- 1.4 This report deals with two separate applications, both of which are intrinsically linked. The first is for the demolition of Victoria House in order to facilitate the re-development of the site. The second is a detailed planning application for its replacement with a development comprising 29 x 1 bedroom and 11 x 2 bedroom (40 in total) retirement apartments for sale to the elderly. The scheme also includes manager's accommodation and communal facilities to include a residents' lounge, laundry, over-night guest suite and a buggy store.
- 1.5 The plans show a single building occupying approximately one third of the site, with car parking for 17 vehicles in its north eastern quadrant and landscaped areas to either side, and rear of the building. It is three storeys with a maximum height of 11.1 metres to the ridge. In more detail, the accommodation is organised as a series of four brick-built elements, linked by a glazed atrium that runs through the core of the development and serves to provide residents with some of the communal facilities referred to above. Most apartments will have their own private balconies and residents will also have full access to the landscaped gardens shown on the plans to the east and west of the building.
- 1.6 The application is accompanied by a series of documents that are listed as follows:
  - Design, Access and Sustainability Statement
  - Planning Statement
  - Building and PPS5 Assessment
  - Statement of Community Involvement
  - Tree Survey
  - Contaminated Land Site Investigation Report
  - Archaeological Desk Based Assessment
  - Transport Impact Report
  - Drainage Survey
  - Bat Survey and Extended Phase 1 Habitat Survey
  - Affordable Housing and Viability Statement
  - Draft Heads of Terms Agreement

## 2. Policies

### 2.1 Herefordshire Unitary Development Plan:

S1	-	Sustainable Development
S2	-	Development Requirements
S6	-	Transport
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR5	-	Planning Obligations
DR6	-	Water resources

H1	-	Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
H9	-	Affordable Housing
H13	-	Sustainable Residential Design
H14	-	Re-using Previously Developed Land and Buildings
H15	-	Density
H19	-	Open Space Requirements
T8	-	Road Hierarchy
T11	-	Parking Provision
LA6	-	Landscaping Schemes
NC1	-	Biodiversity and Development
NC2	-	Sites of international importance
NC3	-	Sites of national importance
NC7	-	Compensation for loss of biodiversity
HBA6	-	New Development Within Conservation Areas
HBA7	-	Demolition of Unlisted Buildings Within Conservation Areas
RST3	-	Standards for Outdoor Playing and Public Open Space

### Supplementary Planning Documents

2.2 Planning Obligations – Adopted April 2008

2.3 National Planning Policy Framework (NPPF)

The following paragraphs are considered to be of particular relevance to this proposal:

14 and 49 – Sustainable Development

56 to 58 – Design Issues

131 – New Development within Conservation Areas

173 and 174 – Ensuring Viability and Deliverability

188 to 191 – Pre-Application Engagement and Front Loading

### **3. Planning History**

3.1 There is no planning history for the site that is specifically relevant to this application. However, planning permission was granted on the adjoining site to the east under application reference DCCW2004/0108/F for the conversion of Victoria Eye Hospital to six dwellings and the erection of 18 new dwellings with associated landscaping and parking.

### **4. Consultation Summary**

#### Statutory Consultations

4.1 Welsh Water: No objections subject to the imposition of conditions relating to the separate treatment of foul and surface water.

4.2 English Heritage: Victoria House is a building of good quality and character that makes a positive contribution to the character and appearance of the area. The loss of the building would in our view constitute substantial harm to the significance of the conservation area. It should therefore be demonstrated that the harm is necessary to achieve substantial public benefits.

4.3 It is proposed to build a single residential block on the site pushing the building line forward to come close to that on the adjoining site. This intensive form of development appears to be contrary to the prevailing pattern of development in this part of the conservation area. We

note, for example, that a more complex approach has been adopted on the adjacent Eye Hospital site.

- 4.4 The design and layout of the proposed scheme would not in our view preserve or enhance the character or appearance of the conservation area. The form of development would not in itself, therefore constitute a public benefit. We would conclude, therefore, that the case for the substantial public benefits arising from demolition and redevelopment has not been made and recommend that planning permission be refused.

#### Internal Council Advice

- 4.5 Traffic Manager: Initially commented that the ratio of 0.35 spaces per apartment (17 in total) was insufficient and suggested that a ratio of 0.7 per apartment would be more appropriate, equating to 28 spaces in total. However, following an exchange of correspondence about the rationale behind the parking provision made it is recommended that, as it is argued that the average age of entry to the development is likely to be in excess of 70 years, a condition restricting availability to potential residents aged 65+ be imposed.
- 4.6 Conservation Manager (Historic Buildings): The heritage assessment of Victoria House by Beardmore Urban is accepted in that it provides a level of information that is proportionate to the significance of the asset. Its assessment of the building as a competent but average example of an early C20th dwelling is accepted. The loss of any building must be weighed on its merits, but the NPPF accepts that some degree of change is inevitable in the built environment and that new development can make a positive contribution to the character and local distinctiveness of an area. On this basis no objection is raised to the proposal.
- 4.7 Conservation Manager (Landscape): Generally content with the application, subject to conditions to deal with the detailed design of the landscaping scheme.
- 4.8 Conservation Manager (Ecology): No objection subject to the imposition of a condition requiring the submission of a habitat protection and enhancement scheme. A screening report has also been completed as a requirement under the Habitats Regulations. The recommendations of the report are currently under review and an update will be provided at the meeting.
- 4.9 Housing Development Officer: Not supportive of the application in its current format as it does not make any on-site affordable housing provision and that the amount available for an off-site contribution does not accord with the advice given at the pre-application stage, when it was suggested that if an off-site contribution were to be accepted, it should equate to £50,000 per dwelling. Based on a 35% provision this would amount to 14 dwellings and a contribution of £700,000.
- 4.10 The suggestion made in the applicant's supporting documents that a mixed development of affordable and open market would cause friction between residents is disputed, and an example at The Rose Gardens on Ledbury Road is cited, where a mix of independent living apartments, both open market and affordable, has been very successful. This is considered to be a good and comparable example where housing management has not proved to be an issue.
- 4.11 CCTV Commissioning Officer: There are areas in close proximity to the application site where there is a high incidence of anti-social and criminal behaviour and disorder. The area of Eign Street/Whitecross Road/Great Western Way is particularly identified as a busy route in and out of the city by foot and by vehicle and a camera on the main highway over the subway under Whitecross Road would greatly enhance the current system. Accordingly a contribution of £21,865 is requested.



- 4.12 Head of Environmental Health and Trading Standards: No objection subject to the imposition of a condition relating to a remediation scheme regarding contaminated land issues.
- 4.13 Parks & Countryside: It is noted that the development includes 1,620 m<sup>2</sup> (0.162ha) of amenity green space which will include varied planting, walking routes, social seating areas, lawns and communal gardens. On this basis an off site contribution towards open space provision is not required.
- 4.14 Your Officers have also consulted the District Valuer's Office to seek independent expert advice about the detail contained within the Affordable Housing and Viability Statement submitted by the applicants, and to ascertain whether a scheme including the contributions required to comply with policy would be viable. A detailed report has been provided by the District Valuer's Office and this will be referred to in detail in the Officer's Appraisal below.

## **5. Representations**

- 5.1 Hereford City Council: Object to the application and have asked that the scheme be re-designed in order that at least one parking space per flat is provided, plus some spaces for visitors and service providers.
- 5.2 Hereford Civic Society: Do not object to the application but see the lack of renewable energy as a missed opportunity.
- 5.3 Woolhope Naturalists Field Club: Object specifically to the demolition of the existing building and consider that it should be listed. They have not commented on the detailed design of the replacement building.
- 5.4 Three letters have been received that are generally favourable towards the application. They highlight the improvement of a currently derelict site and the provision of a type of accommodation that is currently lacking in Hereford as recurring themes. One resident of Victoria Court has asked for careful regard to be had to issues around residential amenity.
- 5.5 Nine letters of objection have been received. In summary the points raised are as follows:
- Victoria House is of local interest and should be retained
  - Many new buildings have been constructed in the conservation area. The existing building should be retained
  - The area around Lord Scudamore School is already too built up with houses.
  - There is too much overlooking of the school grounds already and this proposal will make things worse
  - Victoria House should be retained and used as a community centre
- 5.6 A petition containing 219 signatories entitled 'Petition against the proposed development of Victoria House' has been received. In summary the points raised are as follows:
- Victoria House is a landmark building in the Whitecross area and should be returned to its former glory
  - The results of a survey of local residents as part of the preparation of the Hereford City Plan, prepared by Hereford City Council, show that local people would like Victoria House to be retained and put to a community use
- 5.7 A letter has also been received from the Lord Scudamore Academy Eco-Committee who comment that if the site is developed as proposed it will back immediately onto an area within the school grounds that has been developed as an outdoor classroom and as a haven for wildlife. It highlights the importance of the area for improving children's understanding of their environment .

- 5.8 The consultation responses can be viewed on the Council's website by using the following link:-  
[www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113131](http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113131)

Internet access is available at the Council's Customer Service Centres:-  
[www.herefordshire.gov.uk/community\\_and\\_living/consumer\\_advice/41840.asp](http://www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp)

## 6. Officer's Appraisal

- 6.1 There are a number of matters to be considered in the determination of both of these applications. These are summarised below in the order that they will be addressed in the report:

- Design, scale and massing
- Affordable housing provision
- Economic viability
- Demolition of Victoria House
- Impact on adjoining land uses
- Car parking provision
- Biodiversity/Water Quality

### Design, Scale and Massing

- 6.2 The plans have been amended since the original submission of the application in an attempt to address concerns raised by officers about the scale and massing of the building, and the design of the elevation presenting to Eign Street. These include the introduction of a contemporary oriel window and alterations to improve the architectural rhythm of the front elevation, as well as the introduction of full height glazing mid-way along the west elevation to add a further visual break. However, the overall mass of the building has not been reduced and the plans show a large, single structure of approximately 1,000 square metres in footprint, covering approximately one third of the site area.
- 6.3 Notwithstanding the fact that they are similar in terms of overall plot coverage and footprint, the mass of the proposed building is significant by comparison to the residential development of Victoria Court. It benefits greatly from the visual break provided by the shared open space at the heart of the development.
- 6.4 The atrium at the core of the proposed development is intended to break up the mass, and the use of four separate pitched roofs aims to reduce its overall scale, but in your officers opinion that the proposed scheme fails to achieve this. Whilst the introduction of three storeys is reflective of the development at Victoria Court, which is of a similar height to this proposal, and to other buildings along Whitecross Road, the sheer mass of the proposal does not relate to the pattern of development in the immediate locality and is not representative of this part of the conservation area. Policy HBA6 comments quite specifically on this point and states that:
- "the proposed development shall respect the scale massing and height in relation to adjoining buildings, and the general pattern of heights"*
- 6.5 By virtue of its design, scale and massing the proposal does not preserve or enhance the character or appearance of the conservation area. In this respect the proposal fails to accord with Policy HBA6 of the Herefordshire Unitary Development Plan.
- 6.6 In accordance with the requirements of the NPPF, the report will go on to consider if there are any other public benefits that would outweigh the concerns raised about the design, scale and massing of the proposed building.

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Further information on the subject of this report is available from Mr A Banks on 01432 383085

### Affordable housing provision

- 6.7 It is implicit from the applicant's submission that they accept that the type of accommodation that they are providing are dwellings as defined under Class C3 of the Town and Country Planning Use Classes Order. Therefore it is appropriate to require an affordable housing provision under Policy H9 of the Herefordshire Unitary Development Plan. The benefits that would be derived by securing affordable housing provision might be considered as public benefits that would outweigh the harm that might be caused to the character and appearance of the conservation area and therefore are material as referred to in paragraph 6.6 above.
- 6.8 At the pre-application stage the applicant's agent advised of their client's intention to make an off-site contribution for affordable housing, rather than make an on-site provision. They were advised that this would need to be justified if the Council were to set aside the requirements of adopted affordable housing policy. Notwithstanding this, a figure for an off-site contribution was provided by officers to form part of a Heads of Terms Agreement. Based on an equivalent 35% provision this would amount to £700,000 – 14 dwellings at £50,000 each. It is worth noting that, at no time throughout the course of pre-application discussions or the consideration of the planning application has the level of off-site contribution that the Council has stated been questioned, but rather the implications for the viability of the scheme. This is a material consideration to which weight must be attached in the context of the overall aim of promoting sustainable development.
- 6.9 The applicant has submitted an Affordable Housing and Viability Statement as part of the application. This asserts that the provision of on-site affordable housing within developments for specialised housing for the elderly is both problematic and unviable. It concludes that in this instance, an off-site provision would be more appropriate.
- 6.10 By way of further explanation, the report advises that the type of accommodation to be provided results in the payment of a service charge by residents to cover the upkeep and maintenance of the building and grounds, and the salary of a house manager. It suggests that if low cost or subsidised housing is included within the development, an additional cost of maintenance would have to be borne by private residents, leading to potential friction or animosity. It is therefore concluded that it is more appropriate to consider an off-site contribution towards affordable housing.
- 6.11 The case for off-site provision seems to focus exclusively on incompatibility and friction between private residents and residents in low cost or subsidised properties. The statement implies that two separate blocks would be required to overcome this, adding to the cost of the development of the site and making it unviable.
- 6.12 The applicant's agent has referred to a case study in Launceston where their client did agree to a mixed development of open market and affordable units to provide evidence for these assertions. However, the Council's Housing Development Officer has highlighted a case at The Rose Gardens on Ledbury Road where a similar project has successfully incorporated a mix of affordable and open market units.

### Economic Viability

- 6.13 As referred to earlier in this report, the application is accompanied by an Affordable Housing and Viability Statement. The latter part of the statement deals with the economic viability of the proposed scheme and makes a number of assumptions about the eventual value of the residential units, the build cost of the development, the profit margin that should be expected by the developer and the value of the site. However, it excludes any affordable housing provision or Section 106 contributions from its development costs, and the model has been used to conclude that the excess finance, once these other factors have been considered, is the amount available for a contribution.

6.14 The NPPF provides some useful advice about financial viability of schemes and reads as follows:

*Pursuing sustainable development requires careful attention to viability and costs in plan-making and decision-taking. Plans should be deliverable. Therefore, the sites and the scale of development identified in the plan should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements for affordable housing, standards, infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable.*

- 6.15 Your officers had raised a number of questions about the figures contained within the viability statement. In order to seek some clarity on this issue, the District Valuers Office (DVO) has been engaged to provide independent expert advice. This has been undertaken with the agreement of the applicant. The DVO was first asked to consider the viability of a scheme to include contributions to be secured through a Section 106 Agreement for improved library services, CCTV in the locality and, most significantly an equivalent off-site contribution for 14 dwellings towards affordable housing. This amounts to £741,000.
- 6.16 The report from the DVO concludes that the scheme would not be viable if the Council were to insist on a contribution of £741,000. However, following further sensitivity analysis where the DVO has applied different levels of contribution, it has become apparent that if the Council were to reduce the level of off-site affordable housing provision to 10 units; an equivalent contribution of £500,000 and a total contribution of £537,490, the scheme would be viable.
- 6.17 The applicant's have re-considered their appraisal looking at some of the inputs within the District Valuers report that they accept. However, they state that there are other figures that they do not accept (it is not made clear which these are), their revised figures show an excess of £195,000 and they have made a final offer of £200,000.
- 6.18 The purpose of engaging the District Valuer was to establish whether a viable scheme could be achieved, and it is evident from the report provided that it could if the Council is flexible about the contributions that it seeks. The final offer that has been made by the applicant falls well short of the figure of £537,490. The applicants have not provided any evidence to show why they disagree with some of the figures used in the District Valuers report and in the absence of any evidence, there is no justification for the Council to accept a reduced contribution and compromise further compliance with its adopted policies.
- 6.19 The advice that has been received from the District Valuers Office has provided evidence that, with some compromise about the level of off-site contribution to be made for affordable housing on the part of the Council, the scheme could be viable. Your officers have considered the advice given by the NPPF about viability and are satisfied that the reduced level of contribution would not be unduly burdensome to the applicants. However, they have failed to provide a robust defence of their disagreement about the figures used by the District Valuer.
- 6.20 The offer of £200,000 to provide affordable housing off-site is not proportionate to the size of the development and, in the absence of any evidence to substantiate the claim that the scheme would not be viable with a higher level of contribution, the scheme is considered to be contrary to Policy H9 of the Herefordshire Unitary Development Plan. Furthermore, in the absence of any other legitimate justification, the applicant's position regarding on-site provision is unwarranted.

#### Demolition of Victoria House

- 6.21 Policy HBA7 of the Herefordshire Unitary Development Plan refers specifically to the demolition of unlisted buildings in conservation areas and suggests that demolition will only be permitted if:
- The proposal is accompanied by a proposal for re-development
  - The building does not make a positive contribution to the character or appearance of the conservation area, and
  - The structural condition of the building is such that the cost of repair out-weighs the importance of its retention
- 6.22 The National Planning Policy Framework (NPPF) also provides advice in this respect and requires local planning authorities to have regard to the particular nature and significance of the heritage asset (in this case the conservation area) and the impact of new development on it, taking into account the desirability for it to make a positive contribution to the character and local distinctiveness of the historic environment.
- 6.23 The proposal is the subject of two separate applications; one for demolition and the other for a replacement building. Therefore the first part of Policy HBA7 is met.
- 6.24 The second two bullet points need to be read in conjunction with one another. Their inference is that, if it is concluded that the building in question is not considered to make a positive contribution to the conservation area, its structural condition is not of significance. The NPPF is also relevant here where local authorities need to assess the significance of the asset.
- 6.25 The Council's Historic Buildings Officer has considered the impact of demolishing the building and concurs with the conclusion of the applicant's assessment that it does not make such a positive contribution that it must be retained and thus compromise the re-development of the site. In coming to this conclusion, consideration has been given to the comments received from the Woolhope Naturalists Field Club who are of the view that the building is a significant piece of Arts and Crafts Architecture and is worthy of listing.
- 6.26 The comments received from English Heritage do not infer that the building should be considered as one appropriate for listing. However, they surmise that it is of a good quality and does make a positive contribution to the character and appearance of the conservation area. Their advice is clear that there should be substantial public benefit if the building is to be demolished. They do not consider that the detailed design of the building provides such public benefit, and this point has been considered earlier in this report, with a conclusion similar to that of English Heritage. The scheme fails to provide substantial public benefit in terms of its design and does not enhance the character or appearance of the conservation area.
- 6.27 It has also been demonstrated that the scheme does not provide substantial public benefit through the provision of affordable housing, either within the site or by securing an equivalent contribution for off-site provision. Your officers do not consider that significant weight can be given to the argument to be made that the development would free up more affordable accommodation in the open market. The typical scenario is that the type of accommodation would be occupied by individuals or couples looking to down-size. With open market values for the accommodation proposed at £156,000 for a one bedroom apartment and £215,000 it seems entirely reasonable to assume that the accommodation that residents would be moving from would be unaffordable to those people in housing need.
- 6.28 It does not appear that the existing building is in such structural decline that it could not be repaired, and it does make a positive contribution to the character and appearance of the conservation area. It is a building of some historic importance and its association with the Victoria Eye Hospital is well documented. As such it is considered to be of local importance. There is insufficient justification for the demolition of Victoria House and therefore the proposal

is considered to be contrary to Policies HBA7 and HBA8 of the Herefordshire Unitary Development Plan.

#### Impact Upon Adjoining Land Uses

- 6.29 As described earlier in this report, the area is characterised by a mix of uses. At the boundaries of the application site the two most sensitive are the residential use of Victoria Court to the east and Lord Scudamore School to the south.
- 6.30 The design of the proposal has responded to consultations undertaken with residents of Victoria Court prior to the submission of the application. The east elevation, which faces Victoria Court, is staggered and at their closest, the distance between opposing elevations is 17 metres. This relates to one modest two storey projection and more typically the distance between the two ranges between 27 and 30 metres. This relationship is considered to be entirely acceptable and will not result in any significant degree of overlooking. It is worth noting that there has been no adverse reaction to this proposal from residents in Victoria Court.
- 6.31 The proposal has been carefully assessed from the grounds of Lord Scudamore School. At its closest point in the south eastern corner, the development will be 3 metres from the shared boundary with the school, increasing to 6.6 metres at the south western corner. The proximity of the building to the school has been a point of concern throughout pre-application discussions and the consideration of this application, particularly due to mass and scale of the building at such close quarters to an area immediately adjacent within the school grounds that is used as an open air learning area. It is considered that on balance the degree of separation is acceptable. This conclusion is reached having regard to the relative orientation of the 2 sites, which would ensure that there would be no overshadowing of the outdoor teaching area, the presence of intervening trees and additional planting and the associated classroom building on the boundary. Furthermore, it is evident that the school does not object to the presence of the building and has not commented on the application.

#### Car Parking Provision

- 6.32 The applicant's have submitted a Transport Impact Report with the application. This considers the likely dependency on private forms of transport by potential residents and provides an assessment based on surveys undertaken at other properties across the country owned by the applicants. In line with the definition of Category II type retirement housing, which this application seeks to provide, the age of residents will normally be restricted to 60+ except where a resident over the age of 60 has a partner of 55 years of age or over. The evidence provided by the report suggests that the average age of entry to the applicant's properties is in fact 76.
- 6.33 The report then continues to analyze car ownership levels of residents by age. Between the ages of 55-60 it shows this to be at 80%, declining steadily to 33% between the ages of 75-80. It is upon this latter level of car ownership that the applicants have based their parking provision, with 14 spaces for residents equating to a 35% overall provision, with a further three spaces for visitors.
- 6.34 In light of the assumptions made about the age of residents and their average level of car ownership, the applicant's were asked to give consideration to the imposition of a condition that would require the minimum age of the principal occupant of an apartment to be a minimum of 65. No response has been received to this request.
- 6.35 The report also states that the position regarding parking, and entitlement to a permit, would be made clear to prospective residents prior to their purchase of a property. On this basis, it is for any purchaser to decide whether or not they still want an apartment without parking in the event all of the permits had been allocated. There is an absence of on-street parking in the

immediate vicinity of the application site and alternative parking is very limited, except perhaps the Horse and Groom car park opposite which charges members of the public a daily fee. It is therefore concluded that the impact of a lack of parking on site is unlikely to impact elsewhere.

- 6.36 The provision of just 17 car parking spaces in total does fall short of the normal expectations that would be placed upon a development of this nature. However, the proximity of the site to the city centre, the accessibility of local services, and the fact that a bus stop is immediately outside the site are all mitigating factors for a lower level of on-site parking and, combined with the analysis of existing sites as described above, your officers are content with the provision that has been made provided that a condition limiting the minimum age of the principal occupant of each apartment is imposed. On this basis the car parking provision is considered to be acceptable.

#### Biodiversity/Water Quality

- 6.37 The application is accompanied by an ecological survey and the Council's Ecologist is content that it is sufficiently detailed to allow a favourable recommendation in respect of on-site mitigation. The concerns raised in particular by the Lord Scudamore Academy Eco-Committee can be satisfactorily addressed through the imposition of a condition to secure biodiversity enhancements should this application be approved.
- 6.38 The issue of water quality is one that demands further explanation as it is likely to become a matter that affects an increasing number of planning applications across certain parts of the county in the future. Phosphate levels in the Rivers Wye and Lugg have been identified as being at a critical level, to an extent that it potentially compromises their designations as Special Areas of Conservation. As a competent authority, the council has an obligation to complete a screening opinion to determine whether or not developments within their catchment areas are likely to have significant effects on them. This is not a matter to be considered in isolation, but also in respect of the in combination effects of other developments within the catchment area. This will include development that may occur through potential allocations made in the emerging Core Strategy.
- 6.39 The screening report that has been completed is currently the subject of further legal advice in respect of the Council's approach to in-combination effects with emerging Core Strategy policies. This advice is not available at the time of writing and the position will be updated at the Committee meeting.

#### Conclusion

- 6.40 The applicants have failed to demonstrate that there are sufficient public benefits to outweigh the loss of Victoria House as a building considered to be locally important. By virtue of its detailed design, scale and mass, the proposed building does not respect or reflect the scale or pattern of development in this part of the conservation area, contrary to Policies DR1, HBA6 and HBA7 of the Herefordshire Unitary Development Plan, or the guiding principles of the National Planning Policy Framework.
- 6.41 Your officers recognize that the contributions requested originally, particularly in respect of a commuted sum for equivalent off-site affordable housing provision would have made the scheme economically unviable. However, the applicants have been unable to demonstrate to the satisfaction of the local planning authority that the level of contribution that they have proposed is reasonable. As a result the local planning authority is unable to demonstrate that public benefit would be achieved through affordable housing provision, either through an on-site provision or an acceptable off-site contribution. Accordingly the proposal is contrary to Policy H9 of the Herefordshire Unitary Development Plan. The subsequent lack of an acceptable Heads of Terms Agreement means that the proposal also fails against the

requirements of Policy DR5 and the Council's adopted Planning Obligations SPD. The application for planning permission is therefore recommended for refusal.

- 6.42 In the absence of an approved scheme for the redevelopment of the site the first requirement of Policy HBA7 is not met and consequently the application for Conservation Area Consent is also recommended for refusal.

## RECOMMENDATION

In respect of DMS/113131/F that planning permission be refused for the following reasons:

1. The proposal fails to make adequate provision for affordable housing. The local planning authority is not satisfied that the Affordable Housing and Viability Statement submitted in support of the application is sufficiently detailed and does not demonstrate that a provision of on-site affordable housing would be economically unviable, or that the low level of contribution proposed for an alternative off-site provision is warranted. In the absence of an on-site affordable housing provision or sufficient justification for non provision, or an equivalent off-site contribution, the proposal is contrary to Policy H9 of the Herefordshire Unitary Development Plan.
2. The proposal fails to demonstrate that there are sufficient public benefits to outweigh the loss of Victoria House as a building considered to be locally important. By virtue of its detailed design, scale and mass, the proposed building does not respect or reflect the scale or pattern of development in this part of the conservation area, contrary to Policies DR1, HBA6 and HBA7 of the Herefordshire Unitary Development Plan, or the guiding principles of the National Planning Policy Framework.
3. In the absence of an agreed Draft Heads of Terms Agreement the proposal is contrary to Policy DR5 of the Herefordshire Unitary Development Plan and the Council's adopted Supplementary Planning Document - Planning Obligations.

In respect of DMS/113132/C that planning permission be refused for the following reason:

1. In the absence of an approved scheme for the redevelopment of the site the demolition of the existing building is unwarranted and the clearance of the site would be detrimental to the character and local distinctiveness of the Conservation Area contrary to Policies HBA6 and HBA7 of the Herefordshire Unitary Development Plan.

Decision: .....

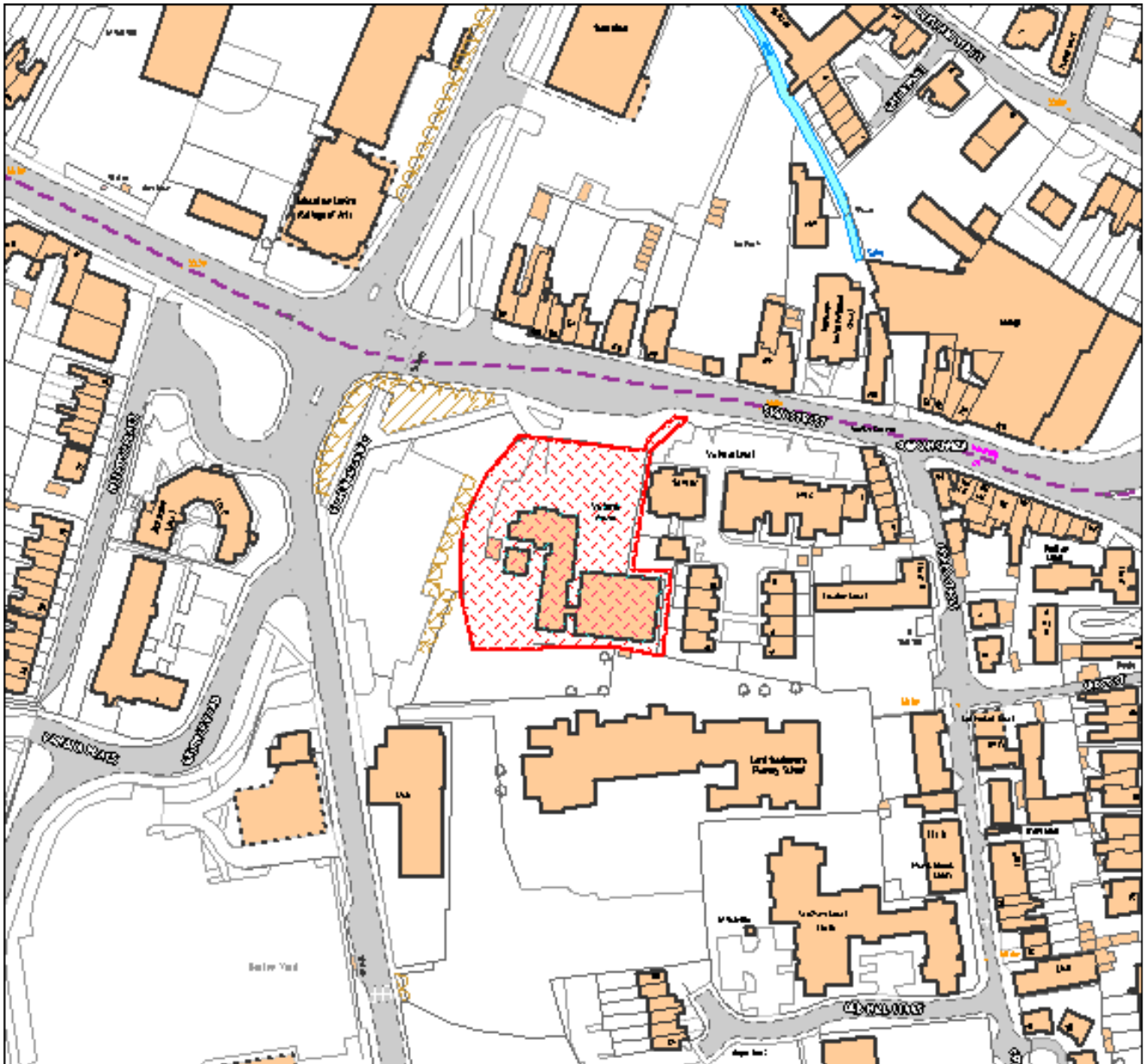
Notes: .....

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## Background Papers

Internal departmental consultation replies.





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**APPLICATION NOS:** DMS/113131/F & DMS/113132/C

**SITE ADDRESS :** VICTORIA HOUSE, 149-153 EIGN STREET, HEREFORD, HR4 0AN

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Further information on the subject of this report is available from Mr A Banks on 01432 383085





<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>16 May 2012</b>
<b>TITLE OF REPORT:</b>	<b>N113545/F - PROPOSED CONSTRUCTION OF 4 HOUSES AND GARAGES AT LAND BEHIND 43 DUKE STREET, KINGTON, HEREFORDSHIRE, HR5 3BL</b>  <b>For: Mr Morris per Mr Nick La Barre, Easters Court, Leominster, Herefordshire, HR6 0DE</b>
<b>WEBSITE LINK:</b>	<a href="http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113545&amp;NoSearch=True">http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113545&amp;NoSearch=True</a>

**Date Received: 19 December 2011**    **Ward: Kington Town**    **Grid Ref: 329804,256729**  
**Expiry Date: 13 February 2012**  
 Local Members: Councillor TM James

## 1. Site Description and Proposal

- 1.1 The application relates to a redundant parcel of land located to the rear of The Oxford Arms Public House. The site is rather overgrown, occupies an elevated position and is visually prominent from Duke Street to the south. With the exception of a small storage building that is attached to the eastern boundary wall, the site is devoid of any structures, although it is understood that buildings were once present but have been demolished. Its open character is especially unusual in a town that is characterised by narrow roads and alleys with buildings positioned hard against the road frontage.
- 1.2 The site has strong boundaries to the north and east in the shape of 2 metre high walls constructed in local stone. These are important historical boundaries with Oxford Lane (to the east) and Prospect Lane (to the north). Both lanes are primarily pedestrian routes but also provide access to residential properties.
- 1.3 The site is located within the settlement boundary for Kington and the surrounding area is of a residential character. It also lies within the town's conservation area and a number of listed buildings are positioned along Duke Street including The Oxford Arms.
- 1.4 The site is served by an existing point of access onto Duke Street. This also serves three residential properties.
- 1.5 A mature Beech tree is sited at the south eastern corner of the site on adjoining land beyond the control of the applicant. The tree is the subject of a Tree Preservation Order.
- 1.6 The application is for the erection of four dwellings with associated parking areas, a garage block of three single garages and associated landscaping. The dwellings are arranged as a terrace of three orientated east/west and these are opposed to the west by a single detached dwelling with attached garage and the three bay garage block referred to previously. All are arranged around a central access and turning area, linking with the existing point of access

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Further information on the subject of this report is available from Mr A Banks on 01432 383085

onto Duke Street to the south. The existing building on the eastern boundary is to be retained as an ancillary store for one of the dwellings.

- 1.7 The dwellings are all two storey and are to be finished with stone walls and slate roofs. The terrace has a broken ridge line and similarly the elevations have been stepped to break their uniformity. The terraced dwellings each have three bedrooms, open plan kitchen/dining areas, utility rooms and conservatories, and have an approximate habitable floor area of 100 square metres. The detached dwelling is larger at approximately 135 square metres and has four bedrooms and an attached garage.
- 1.8 The application is accompanied by a Design and Access Statement and the applicant's agent has indicated that his clients would be willing to accept a one year commencement condition if planning permission is granted. Therefore no Heads of Terms Agreement is included.

## 2. Policies

### 2.1 National Planning Policy Framework (NPPF):

The following paragraphs are considered to be of particular relevance to this proposal:

- 14 and 49 - Sustainable Development
- 56 to 58 - Design Issues
- 131 - New Development within Conservation Areas

### 2.2 Herefordshire Unitary Development Plan:

- S1 - Sustainable Development
- S2 - Development Requirements
- S6 - Transport
- S7 - Natural and Historic Heritage
- DR1 - Design
- DR3 - Movement
- H1 - Hereford and the Market Towns: Settlement Boundaries and Established Residential Areas
- H13 - Sustainable Residential Design
- H14 - Re-using Previously Developed Land and Buildings
- T8 - Road Hierarchy
- LA5 - Protection of Trees, Woodlands and Hedgerows
- HBA4 - Setting of Listed Buildings
- HBA6 - New Development within Conservation Areas

### 2.3 Department for Transport - Manual for Streets 2

## 3. Planning History

- 3.1 DMN/112376/F - Construction of four detached dwellings. Withdrawn.
- 3.2 NW2007/1280/F - Proposed vehicular access off Oxford Lane.

Refused 19 June 2007 for the following reason:

The proposed new access would have a damaging visual impact on the appearance of the conservation area and by encouraging the use of Oxford Lane by vehicles would harm its character as a quiet and safe historic pedestrian route in the conservation area. As such the

proposal fails to preserve the character and appearance of the conservation area and is contrary to Policies S7 and HBA6 of the Unitary Development Plan (2007) and guidance contained within PPG15 – Planning and the Historic Environment.

- 3.3 NW2002/2728/F and 2729/L - Access to Oxford Arms car park for private use.

Refused 6 January 2003 for the following reason:

It is considered that the proposed access would compromise highway safety due to the juxtaposition with the adjacent junction. As such the proposal is considered to be contrary to Policies A1 and A70 of the Leominster District Local Plan (Herefordshire).

#### **4. Consultation Summary**

##### Statutory Consultees

- 4.1 Welsh Water: No objections subject to the imposition of conditions relating to the separate treatment of foul and surface water.

##### Internal Council Advice

- 4.2 Transportation Manager: Comments that traffic speeds along Duke Street are low because of the width of the carriageway, the existence of similar accesses in the immediate locality and the consequent perception that drivers have of hazards. Accordingly the proposal is considered to be acceptable subject to the imposition of a condition to ensure that areas for parking and access are properly laid out. In consideration of the application the Transportation Manager has had sight of and commented on comments raised by the town council in respect of highway safety matters.
- 4.3 Conservation Manager (Historic Buildings): The site forms a substantial open area at the rear of the Oxford Arms and adjacent houses. I have no objection in principle to development provided that it respects the grain of the medieval burgage plots and the scale and building traditions of the old buildings in the historic core.
- 4.4 These traditionally scaled and detailed buildings dressed in stone and slate and with appropriate joinery will preserve and enhance the appearance of the conservation area and consequently no objections are raised subject to the imposition of conditions relating to the submission of materials, joinery, landscaping and to require the repair of boundary walls.
- 4.5 Conservation Manager (Archaeology): No objection subject to the imposition of a condition to secure the implementation of a scheme for site investigation before development commences.
- 4.6 Public Rights of Way Officer: No objection.

#### **5. Representations**

- 5.1 Kington Town Council: Objects to the application on the following grounds:

1. Restricted access

We consider the access to be completely unacceptable for the development proposed.

As indicated on the site plan there is only one access to the site. This access, for both pedestrians and vehicles, is a mere 3.5m wide, thus allowing the passage of only one vehicle at a time and with no space for any marked pedestrian surface. It is at least 1m narrower than Oxford lane on the eastern border of the site.

It will therefore be a serious hazard for pedestrians including young children living in any of the new houses. At present, adjacent to the access, there are 3 dwellings, marked as 43, 46A and 44 on the plan. The inhabitants of those properties are entitled to use this access route. The proposed development provides space for 8 cars, making a minimum of 11 vehicles that would use this access on a daily basis. Visitors and/or additional car owners, delivery vehicles etc will increase the number of vehicles being driven in and out of the driveway.

There is, at present, no splay at the entry to the access, nor is one depicted on the plan. It opens directly onto the pavement on the north side of Duke Street. Drivers exiting from the access onto Duke Street cannot see traffic approaching from their right hand side from The High Street until they move onto the pavement or beyond.

Duke Street is very narrow, affording barely sufficient room for two vehicles to pass each other. There are frequent instances where one vehicle needs to mount a pavement to avoid a collision.

Duke Street carries a considerable amount of traffic in both directions, running directly from the High Street into Victoria Road and meeting the A44 at Sunset roundabout. It is a bus route, and a route to Love Lane that leads to the livestock market.

At present the speed limit is 30mph and there are no additional traffic calming devices.

Duke Street is also a busy pedestrian and cycle route into the town. It is a well-walked route by people of all ages who live on the eastern side of the town, including those from Hatton Gardens on the eastern side of the A44. Children going to and from the two schools, parents with pushchairs and toddlers, elderly people with shopping trolleys, others with mobility scooters are some of the most vulnerable in difficult traffic conditions.

The pavement on the south side of Duke Street is extremely narrow, so the majority of people use the northern side pavement, the one across which all vehicles going to and from the proposed development will need to be driven.

Given the extreme narrowness of both the proposed access, and of Duke Street itself, drivers exiting from the site and wishing to turn right will almost certainly have difficulty turning across the line of traffic; likewise drivers approaching from the east and wishing to turn onto the site will need to cross the line of traffic. Right hand turns are statistically proven hazards.

The access is very close to the T-junction where Duke Street meets the High Street. Because of the narrowness of both these streets there are frequent logjams, especially when large vehicles find difficulty negotiating the corner. A development producing 8 or more additional cars exiting near the junction will cause big problems for all road and pavement users.

We consider the proposed access to be unacceptably hazardous for residents of the development and all other users of Duke Street. We consider the proposal is directly contrary to T8 of the UDP, which states "Development proposals that require access to the road network should have regard to the need to maximise road safety"

## 2. Number of houses

We consider that the number of houses for this particular site is too high. We accept that the measured density is within the guideline for a town centre development but we consider that the nature of this particular site cannot sustain four houses. We consider that the intentions of H13 in the UDP have not been carried into the proposed development.

The house plan for Unit 3 shows a very meagre amount of space for a family house.

The third bedrooms in Units 2, 3 and 4 are so small that a bed could only be placed in one position and there will be little space for other furniture such as a cupboard and desk.

We consider the provision of conservatories on Units 2, 3 and 4 to be unsatisfactory; larger rooms would be better use of the space and provide more substantial buildings with more robust durability.

We consider that these houses are not suitable for families to live and grow in.

Four houses of the type proposed will generate at least 8-12 vehicles using a wholly unsuitable driveway given its location. The level of air pollution from that number of vehicles regularly used in a relatively small area will be deleterious to the residents of the development and to their neighbours.

There is no provision on the application for lighting on the access route.

### 3. Sustainable design

The plan drawings are lacking in details, such as ceiling heights, use of roof space etc.

From the information provided there appears to be no attempt to design high standard houses with low or nil carbon footprints.

The amount of hard landscaping in addition to the buildings themselves will result in the destruction of potential green space and its natural ability to absorb rain water; rather there will be run-off of water from the hard surfaces.

We consider that H13, Sustainable Residential Design of the UDP has been ignored.

In particular,

- (3) the environment will not be safe or secure for all members of the community
- (4) the design for traffic movement will be hazardous for, residents, pedestrians, cyclists and other transport.
- (5) there is no indication about the energy efficiency, conservation of energy
- (6) no provision is made for recycling
- (7) there is no provision made for conservation of water, or sustainable energy.

### 4. Collection of household waste.

No indication is given of where Household waste/recycling containers etc will be placed. If they are to be at the entry to the access driveway they will block the route.

### 5. Accuracy of the proposed site plan

We believe that the line of the boundary wall on the south side of the site has been incorrectly drawn, and should be to the south of the large copper beech tree. There is the remnant of an old railing on the south side of the trunk of the large beech tree that matches that of a railing along other parts of the wall indicating that the line of the wall should be somewhat further south than on the plan.

### 6. The copper beech tree

As a significant tree in the conservation area of the town it must be preserved.

At present it appears to be healthy with new growth sprouting round the bottom of the trunk.

If any development is allowed on this site root damage to the tree must be avoided. Beech trees are relatively shallow rooted so special precautions against damage are needed.

We are concerned that heavy machinery under and near the canopy of the tree could result in damage. Because of their shallow roots beech trees are vulnerable to reductions in supply of natural water. The proposed development as a whole will reduce the water availability on the site. Any interruption of water- flows to the tree during construction or later will endanger its survival. The site plan proposes that an area of ground near the tree is raised which will inevitably affect the flow of water to the tree.

We consider that the proposal does not provide adequate safeguards for the beech tree.

#### 7. Boundary Wall along Oxford Lane.

The wall is one of Kington's set of stone built Burgage Walls, inherited from the medieval town. All the Burgage Walls are of notable historic interest. Herefordshire Council's archaeologists and others have described the walls as unique. Kington people value them as important features of the townscape, and a special element in the local heritage. The applicant has failed to maintain this wall properly over several years. While being responsible for it he allowed it to collapse some years ago and despite repeated instruction from the Herefordshire Council's Enforcement Officer it has not been fully restored.

We are concerned that there is no statement in the application documents about how construction traffic, equipment and materials would be brought onto the site, the applicant might believe that he could breach the Oxford Lane Wall. We would consider this to be unacceptable.

If any breach is allowed, the following conditions should be applied:

- (i) all stone removed should be stored and reused in rebuilding the wall
- (ii) rebuilding should be to a standard specified
- (iii) the wall to be restored to the specified standard before any of the site is occupied.

#### 8. Construction Traffic

The application is inadequate and incomplete; no information is provided about construction traffic. We consider that the proposed driveway to the site is inadequate for construction traffic and equipment. In particular the dwelling, No 44, will be very vulnerable to possible damage from both impacts and also vibrations. We understand that the main sewage pipe is close to the surface under this driveway.

#### Conclusion

Kington Town Council objects strongly to the application for the reasons stated.

We believe that the designs of the dwellings and the access to the site do not comply with the requirements of the UDP.

#### 5.2 Three letters of objection have been received from the following:

- Esther Rolls, 9 Duke Street, Kington
- J M C Deacon, Bell Cottage, Church Road, Kington (owner of 46D Duke Street)
- Mr & Mrs Yardley, Mitre House, 4 Duke Street, Kington

In summary the points raised are:

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Further information on the subject of this report is available from Mr A Banks on 01432 383085



- Concerns over highway safety, particularly due to the narrowness of Duke Street and the lack of visibility at the point of access.
- Heavy construction traffic may cause damage to the old drainage system serving existing properties.
- The proposal appears to represent over-development
- The development is not sympathetic to the surrounding area.
- If the land is to be developed it would be more appropriate for a small development suitable for retirees.

5.3 One letter of support has also been received from J M Morris, 43 Duke Street, Kington who considers that the site needs to be developed in order to improve the appearance of the area.

5.4 The consultation responses can be viewed on the Council's website by using the following link:-

[www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx](http://www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx)

Internet access is available at the Council's Customer Service Centres:-

[www.herefordshire.gov.uk/community\\_and\\_living/consumer\\_advice/41840.asp](http://www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp)

## 6. Officer's Appraisal

6.1 The site lies within the established residential area of Kington and therefore the basic premise of infill development is accepted, subject to other material planning considerations. In this particular case, the key issue amongst a small number of local residents and the Town Council alike is highway safety and the suitability of the access to accommodate the traffic movements associated with four dwellings. Other matters that are considered to be of importance in the determination of this application include those of design, density, impact upon the Conservation Area and the setting of listed buildings in the locality, and the potential impact of the scheme on the Beech tree. Each of these matters will be considered in turn.

### Highway Safety

6.2 It is accepted that the existing access to the site does not meet the standards set out in the Council's Highway Design Guide in respect of visibility, particularly in a westerly direction where 44 Duke Street is positioned immediately adjacent. Duke Street and the pavement are both very narrow, and it is the case that vehicles passing along the road slow to pass one another. This is very much the character of the whole of Kington and is a consequence of its historical development. It also means that there is no opportunity to improve the existing access.

6.3 The Transportation Manager has highlighted the approach advocated towards highway matters in Manual for Streets. It acknowledges that streets not only facilitate the movement of vehicles and pedestrians, but also create a sense of place. It suggests that, in the past, importance has almost exclusively been given to vehicular movement. However, it now advocates that 'place' and 'movement' should be considered in combination, with their relative importance depending upon the street's function within the wider highway network,

6.4 In this case Duke Street is used predominantly by local traffic to either gain access to residential properties, or to the town centre. Due to the narrowness of the road, the relatively close proximity of the access to the Duke Street/High Street/Bridge Street junction and the fact that the road is used by local people who are familiar with the road conditions, traffic speeds tend to be low and thus the risk of accidents is reduced. It is on this basis that the Transportation Manager considers the proposal to be acceptable in terms of highway safety.

- 6.5 It should be noted that other options have been considered in the past to gain access to the site and that two applications with different approaches have both been refused. The applications both proposed the creation of an access off Oxford Lane but both were refused for reasons described above. The use of Oxford Lane remains an unacceptable solution to officers as this would cause the stone wall that delineates the historic layout of the town into burgage plots to be breached. It would also result in a greater conflict between motorised vehicles and pedestrians and therefore it is not considered to be an appropriate solution as far as the redevelopment of the land for residential purposes is concerned.
- 6.6 It is your officer's opinion that there is no reasonable alternative way of gaining access to the site. A development of four dwellings as shown will not result in an unacceptable intensification in use of traffic movements onto Duke Street, and due to the specific road conditions in the locality and the resultant low traffic speeds, an access that does not meet the standards of the Council's Highway Design Guide is considered to be acceptable in this instance. It is therefore concluded that the proposal is acceptable in terms of highway safety and accords with Policies S6 and DR3 of the Herefordshire Unitary Development Plan.

### Design

- 6.7 The design and layout of the proposal has been amended since the first, and subsequently withdrawn, application in order that it should better reflect the character and appearance of its immediate environs. The buildings are organised in a linear fashion that reflects the pattern of development in the immediate locality, with examples immediately apparent to the south-east and south-west where development fronts onto Duke Street and then has some depth behind.
- 6.8 The plans indicate that the dwellings will be faced in stone with slate roofs, and that their associated outbuildings will be weatherboarded to give them a secondary and subservient appearance. The front elevation of the main block is not uniform. Its ridge height is broken on two occasions, eaves heights similarly differ and the elevation is staggered to give some relief. This arrangement and detailing is characteristic of the town and is considered to be appropriate in this case. The proposal therefore accords with Policy DR1 of the Unitary Development Plan.
- 6.9 The Town Council contend that the proposal is not sustainable and refer specifically to a lack of detail about ceiling heights, use of roof spaces, excessive amounts of hard surfacing, lack of provision for recycling, conservation of water or sustainable energy.
- 6.10 Some of these are not matters to be considered through the planning process but would be dealt with through an application for Building Regulations should planning permission be granted. The site is one that has been previously developed and occupies a location that is immediately accessible to the town centre. This is compliant with sustainable objectives outlined by Policies S1 and H14 of the Herefordshire Unitary Development Plan. Further details of bin storage and measures to incorporate waste recycling could be required by condition. The plans show surfaced areas for access and parking that accord with highway design guide specifications. They are not considered to be excessive and the precise details of each of the surfaces could be provided by condition. Concerns that might arise about surface water run-off are addressed by conditions recommended by Welsh Water.
- 6.11 In conclusion, it is considered that the scheme is of an appropriate design and layout. It reflects the pattern of development in the locality and secures the re-use of land that has been previously developed, in accordance with Policies S1, DR1 and H14 of the Unitary Development Plan.

### Density

- 6.12 Objections have been raised to the development on the grounds that it is considered to be of too high a density. The site measures approximately 0.17 hectares and the density of the proposed development would equate to 23.5 dwellings per hectare. This is considered to be low density. The plans demonstrate the provision of appropriate levels of parking provision and each dwelling has a good sized garden and, as referred to in the paragraphs above, the development is considered to be reflective of the general character and appearance of the locality.

#### Impact Upon the Setting of the Conservation Area

- 6.13 The comments made in the previous paragraphs about design, layout and density are all relevant to the impact of the proposed development. It has been demonstrated that the proposal has had due regard to the character of the area in all these respects. Furthermore, the current condition of the site and its visual prominence combine to negatively affect the appearance of the conservation area. Its redevelopment as proposed will ensure the long term preservation and enhancement of the conservation area in accordance with Policy HBA6 of the Unitary Development Plan and will also serve to protect and enhance the setting of nearby listed buildings in accordance with Policy HBA4. This is also reflected in the NPPF which advises that development should make a positive contribution to local character and distinctiveness.

#### Other Matters

- 6.14 The accuracy of the site location plan has been questioned, particularly with regard to the Copper Beech tree located at the south eastern corner of the site. The site has been visited by the case officer to consider this point and the applicant's agent has also confirmed that the tree lies outside of the application site and is not on his client's land. There is no evidence to question the validity of this statement.
- 6.15 The impact of the proposed development upon the tree has also been considered. Ground levels will be raised within 10% of the tree's root protection area and will not be built upon but will form part of the garden to Plot 4. The tree will not be adversely affected by this proposal and, subject to a condition to ensure its protection during the course of the development, the proposal accords with Policy LA5 and is considered to be acceptable.
- 6.16 The stone wall that surrounds the application site, and that forms the historic boundary of the burgage plots that would have originally been associated with properties on Duke Street, is to be retained. A condition to require its repair in a manner to be agreed with the local planning authority is considered to be both necessary and reasonable.
- 6.17 Matters relating to the archaeological significance of the site and the movement of construction traffic have also been assessed and do not lead to a conclusion that the proposal is fundamentally unacceptable.

#### Conclusion

- 6.18 The Herefordshire Unitary Development Plan remains as the primary document against which planning applications should be determined. It is clear that development should be sustainable, should preserve and enhance the conservation area and should ensure that highway safety is maintained. These are the key matters for consideration in this case and it has been demonstrated that the proposal accords with all of those policies that are relevant.
- 6.19 Sustainability is also the key theme that runs throughout the NPPF and Local Planning Authorities are asked to presume in favour of development that is sustainable. The re-use of previously developed land, the enhancement of the conservation area and the close proximity of the site to local services are all matters that weigh heavily in favour of this proposal with

respect to its sustainability credentials and as such the proposal is also considered to fully accord with the Government's most up to date policy.

6.20 The application is therefore recommended for approval.

## **RECOMMENDATION**

**That planning permission be granted subject to the following conditions:**

- 1. The development hereby permitted shall be begun before the expiration of one year from the date of this permission.**

**Reason: To comply with the provisions of Section 91(1) (b) of the Town and Country Planning Act 1990 (as amended) and to reflect the decision of the Local Planning Authority on 4th March 2009 to suspend (effective from 1st April 2009) the requirements of the Authority's 'Planning Obligations' Supplementary Planning Document (February 2008) in relation to residential developments of five dwellings or less.**

- 2. B01 Development in accordance with the approved plans**
- 3. C01 Samples of external materials**
- 4. C06 Stonework laid on natural bed**
- 5. E01 Site investigation - archaeology**
- 6. G04 Protection of trees/hedgerows that are to be retained**
- 7. G10 Landscaping scheme**
- 8. G11 Landscaping scheme - implementation**
- 9. Details of works required for the repair of the stone wall along the northern and eastern boundaries of the site shall be submitted to and approved in writing by the local planning authority. The details shall include a precise identification of those areas to be repaired, the methods to be employed and detail of the mortar mix. A sample of any new stone required as a result of these repairs shall be submitted to and approved in writing by the local planning authority prior to any repair work commencing. The repairs shall be completed in accordance with the approved details prior to the first occupation of any of the dwellings.**

**Reason: In order to preserve and enhance the character and appearance of the Conservation Area and to comply with Policy HBA6 of the Herefordshire Unitary Development Plan.**

- 10. H13 Access, turning area and parking**
- 11. I16 Restriction of hours during construction**
- 12. L01 Foul/surface water drainage**
- 13. L02 No surface water to connect to public system**
- 14. L03 No drainage run-off to public system**

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Further information on the subject of this report is available from Mr A Banks on 01432 383085

**INFORMATIVES:**

**1. Reason to Grant Planning Permission**

The objections received from the town council and local residents have all been considered in detail. It is acknowledged that the proposed access to the site does not meet the standards set out in the Council’s Highway Design Guide in respect of visibility, particularly in a westerly direction where 44 Duke Street is positioned immediately adjacent. Advice contained within Manual for Streets 2 offers greater flexibility and the development of four dwellings will not result in an unacceptable intensification in use of traffic movements onto Duke Street, particularly when considered with the specific road conditions in the locality and the resultant low traffic speeds.

The design, layout and density of the proposal are all considered to reflect the local area and the re-use of the site in an appropriate manner will both preserve and enhance the character and appearance of the conservation area and the setting of nearby listed buildings, particularly as the scheme will retain and bring about the repair of the stone walls that bound the site to the north and east.

The site is sustainably located in close proximity to Kington town centre with good access to local services. The land has been previously developed and its re-use also meets sustainability objectives.

The Copper Beech tree at the south eastern corner of the site will not be impacted by this proposal. The closet development to it falls beyond its Root Protection Area and its continued vitality can be secured by the imposition of a condition to protect it during construction.

The proposal fully accords with Policies S1, S2, S6, S7, DR1, DR3, H1, H13, H14, T8, LA5, HBA4 and HBA6 of the Herefordshire Unitary Development Plan, as well as the National Planning Policy Framework and Manual for Streets 2.

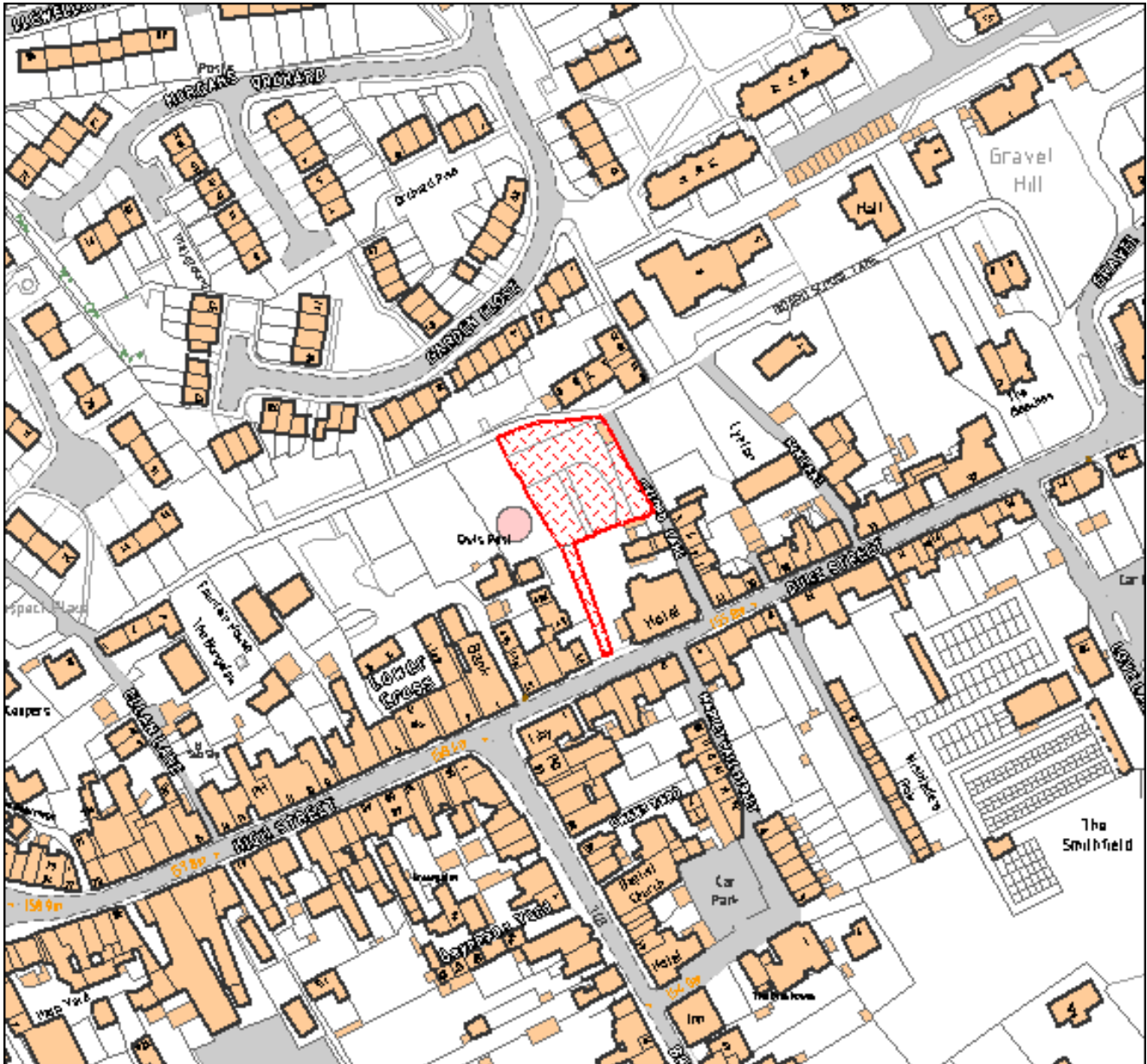
Decision: .....

Notes: .....

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**Background Papers**

Internal departmental consultation replies.



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**APPLICATION NO:** N/113545/F

**SITE ADDRESS :** LAND BEHIND 43 DUKE STREET, KINGTON, HEREFORDSHIRE, HR5 3BL

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Further information on the subject of this report is available from Mr A Banks on 01432 383085



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>16 MAY 2012</b>
<b>TITLE OF REPORT:</b>	<b>S120859/CD - PROPOSED SCULPTURE (HEREFORD BULL) ON STONE PLINTH ADJACENT TO THE OLD HOUSE, HIGH TOWN, HEREFORD</b>  <b>For: Mr Hall per Mr Tony Cahill, 3 Thorn Business Park, Rotherwas Industrial Estate, Hereford, HR2 6JT</b>
<b>WEBSITE LINK:</b>	<a href="http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=120859&amp;NoSearch=True">http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=120859&amp;NoSearch=True</a>

Date Received: 20 March 2012

Ward: Central

Grid Ref: 351071,240039

Expiry Date: 21 May 2012

Local Member: Councillor MAF Hubbard

## 1. Site Description and Proposal

- 1.1 Planning permission is sought for the installation of a life-size bronze Hereford Bull sculpture immediately adjacent the north-west facing elevation of The Old House, High Town, Hereford. The Bull would sit on a 300mm tall, 6.5m diameter sandstone plinth and face North-west. It is secured to the plinth via threaded bolts, one attached to each leg. The sculpture itself is 2.8m long and stands 1.6m to the shoulder. There are five LED uplighters within the plinth.
- 1.2 Beyond the plinth it is proposed to relay reclaimed Yorkstone slabs. The proposal will require the clearance of existing street furniture in the form of 6 benches and 4 trees, one of which is dead. It has been confirmed that 3 of the trees will be replanted at a location to be confirmed.
- 1.3 The site is prominent within High Town and adjacent a landmark Grade I listed building in 'The Old House'. The site is also within the Central Conservation Area and the Area of Archaeological Importance.

## 2. Policies

- 2.1 National Planning Policy Framework Chapter 12: Conserving and Enhancing the Historic Environment.

Paragraphs 128, 129, 131 and 131.

- 2.2 Herefordshire Unitary Development Plan 2007:

S7	-	Natural and Historic Heritage
DR1	-	Design
HBA4	-	Setting of Listed Buildings
HBA6	-	New Development Within Conservation Areas
ARCH7	-	Hereford Area of Archaeological Interest
LA5	-	Protection of Trees, Woodlands and Hedgerows

Further information on the subject of this report is available from Mr E Thomas on 01432 260479

### **3. Planning History**

3.1 None relevant.

### **4. Consultation Summary**

#### Statutory Consultations

4.1 English Heritage: We have no objection to this proposal, but we do advise that further consideration should be given to the provisions of the plinth.

#### Internal Council Advice

4.2 Traffic Manager: No objection.

4.3 Conservation Manager (Archaeology): Recommends that as best practice, a limited precautionary presence should be maintained as it is not believed it can be guaranteed that no disturbance of older deposits would take place. Recommends the imposition of the standard access condition.

4.4 Conservation Manager (Building Conservation): The public art strategy recommended in the Council's Streetscape Design Strategy has yet to be developed, so it is difficult to offer any considered opinion on the impact of this sculpture.

### **5. Representations**

5.1 Hereford City Council: Although we have no objections to the principle, we regret the loss of the seating and we would like to see it replaced immediately elsewhere in High Town.

5.2 Hereford Civic Society: Objection.

Members of the Hereford Civic Society are concerned about the proposed siting of the bronze sculpture. Bearing in mind the busy nature of High Town it is considered that this large, impressive sculpture could, in fact, add to the street clutter. Surely such a noble beast should be presented on its own in a prominent position rather than along with the chairs, tables, caravans and stalls that often feature in High Town. It is of surprise to our Members that English Heritage has not objected to the extremely close positioning next to a Grade I listed building. Further there is concern that there is a proposal to remove living trees and there are no plans detailed to replace them. For these reasons we believe the application should be rejected.

5.3 The agent has confirmed that the existing seating will be removed and used elsewhere at some time in the future and that the plinth is not suitable as a formal seating area as it is not compliant with the Disability Discrimination Act.

5.4 The Design and Access Statement (DAS) submitted with the application confirms that the chosen site was subject to a number of public consultation events, with a replica being placed in a number of locations. The chosen site does not conflict with street trading areas nor does it affect the existing Traffic Regulation Order. The DAS suggests that the historic backdrop provided by The Old House is pertinent, particularly as the dwelling used to form part of Butcher's Row. The pennant sandstone that will be used for the plinth is that which has been used in the Widemarsh Street refurbishment and is specified on the Broad Street scheme currently under design.

5.5 No other comments have been received.



- 5.6 The consultation responses can be viewed on the Council's website by using the following link:-  
[www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx](http://www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx)

Internet access is available at the Council's Customer Service Centres:-  
[www.herefordshire.gov.uk/community\\_and\\_living/consumer\\_advice/41840.asp](http://www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp)

## 6. Officer's Appraisal

- 6.1 The application is for a piece of public art, within the Central Conservation Area, immediately adjacent the Grade I listed 'Old House'. It is my view that the key issues in the determination of this application are an assessment of the impact of the development upon 1) the character or appearance of the Conservation Area; and 2) the setting of the adjoining Grade I listed building.

### Planning Policy Framework

- 6.2 The National Planning Policy Framework (NPPF) advises that local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise (NPPF paragraph 129).
- 6.3 In determining planning applications, paragraph 131 of the NPPF advises that local planning authorities should take account of, amongst other things, the "desirability of new development making a positive contribution to local character and distinctiveness." This sentiment is echoed by Herefordshire Unitary Development Plan Policy DR1 (Design).
- 6.4 Herefordshire Unitary Development Plan Policy HBA6 states that development within conservation areas will not be permitted unless it preserves or enhances its character or appearance. This is reflective of The Listed Building and Conservation Areas Act, which places a duty on Councils to consider the impact of development within conservations areas upon the character or appearance of such areas. Policy HBA4 directs the decision-maker to refuse development proposals which would "adversely affect the setting of a listed building." The impact of the proposal should be judged in terms of scale, massing, location, detailed design and the effects of its uses and operations.
- 6.5 The Hereford Bull is synonymous with the County and one of its most instantly recognisable symbols. Accordingly it is difficult to disagree that such a sculpture has relevance to this area in the broadest sense. Likewise it is clear that the formal application was preceded by public consultation events and necessary consideration of the impact upon other competing uses within High Town.
- 6.6 In this case the physical impact is comparatively local, although there will be a range of views down High Town and Commercial Street, and by virtue of its scale The Old House will, in my view, remain the indisputable focus. The position of the sculpture is such that it will be largely hidden on approach from St Peters Street. Although trees and seating will be removed, I note the Council's Streetscape Design Guide is not adopted, and in any event I am not convinced that the trees are worthy of retention. I consider the impact upon the appearance of the conservation area to be neutral and that the proposal is thus in accordance with Policy HBA6.
- 6.7 The Conservation Officer has not offered direct comment on this issue, although there is no objection offered per se. English Heritage, the Government body with over-arching responsibility for the protection of nationally significant heritage assets has no objection to the proposal, but does question the need for a plinth. Having regard to the specialist advice received, and in line with NPPF paragraph 129, I feel it reasonable to conclude that the development proposal would not adversely affect the setting of the listed building in

accordance with Policy HBA4 of the Herefordshire Unitary Development Plan. Moreover, although some may feel the link is tenuous, I accept that others may share the view that the location, adjoining a dwelling formerly part of Butcher's Row, might lend the piece added relevance.

- 6.8 I note concern expressed at the loss of the public seating area. Although I am reassured that the seating will be used elsewhere, I am conscious that this does not necessarily meet the City Council's request that it be re-sited immediately. Nonetheless, this in itself is not a reason for withholding planning permission. The removed trees will be replanted within the public open space off Old School Lane.
- 6.9 The Council's Archaeological Advisor recommends the imposition of a site observation condition and has requested that notification of commencement be given 14 days prior to work starting on site. This is in order that an on-site presence can be guaranteed, as recommended by Policy ARCH7.

## **RECOMMENDATION**

**That planning permission be granted subject to the following conditions:**

- 1. A01 Time limit for commencement (full permission)**
- 2. B01 Development in accordance with the approved plans (drawing nos. 551600/C/001 – Site Clearance and Earthworks; 551500/C/002 – Plinth Detail; 551600/C/003 – Bull installation and Proposed Lighting; 551600/C/004 – Location Plan and General Arrangement)**
- 3. E03 Site observation - archaeology**

**Reason for Approval:**

- 1. The proposal was considered having regard to the statutory provisions of The Planning (Listed Building and Conservation Areas) Act 1990, Policies HBA4, HBA6, LA5 and ARCH7 of the Herefordshire Unitary Development Plan and the guidance contained in the National Planning Policy Framework.**

**Having due regard to the above, the Council concludes that the development would not adversely affect the setting of the adjoining Grade I Listed Building and would preserve the character and appearance of the Conservation Area in accordance with Policies HBA4 and HBA6 of the Herefordshire Unitary Development Plan. The imposition of a site observation considered is considered to address the potential archaeological interest of the site as one within the area of Archaeological Interest would secure compliance with Policy ARCH7.**

**Informative:**

- 1. The developer is asked to note the minimum of 5 days' written notice of the commencement of any development that should be served on the County Archaeology Service as per the requirements of condition The developer is advised to contact Mr Julian Cotton (County Archaeological Advisor) on 01432 383350.**

Decision: .....

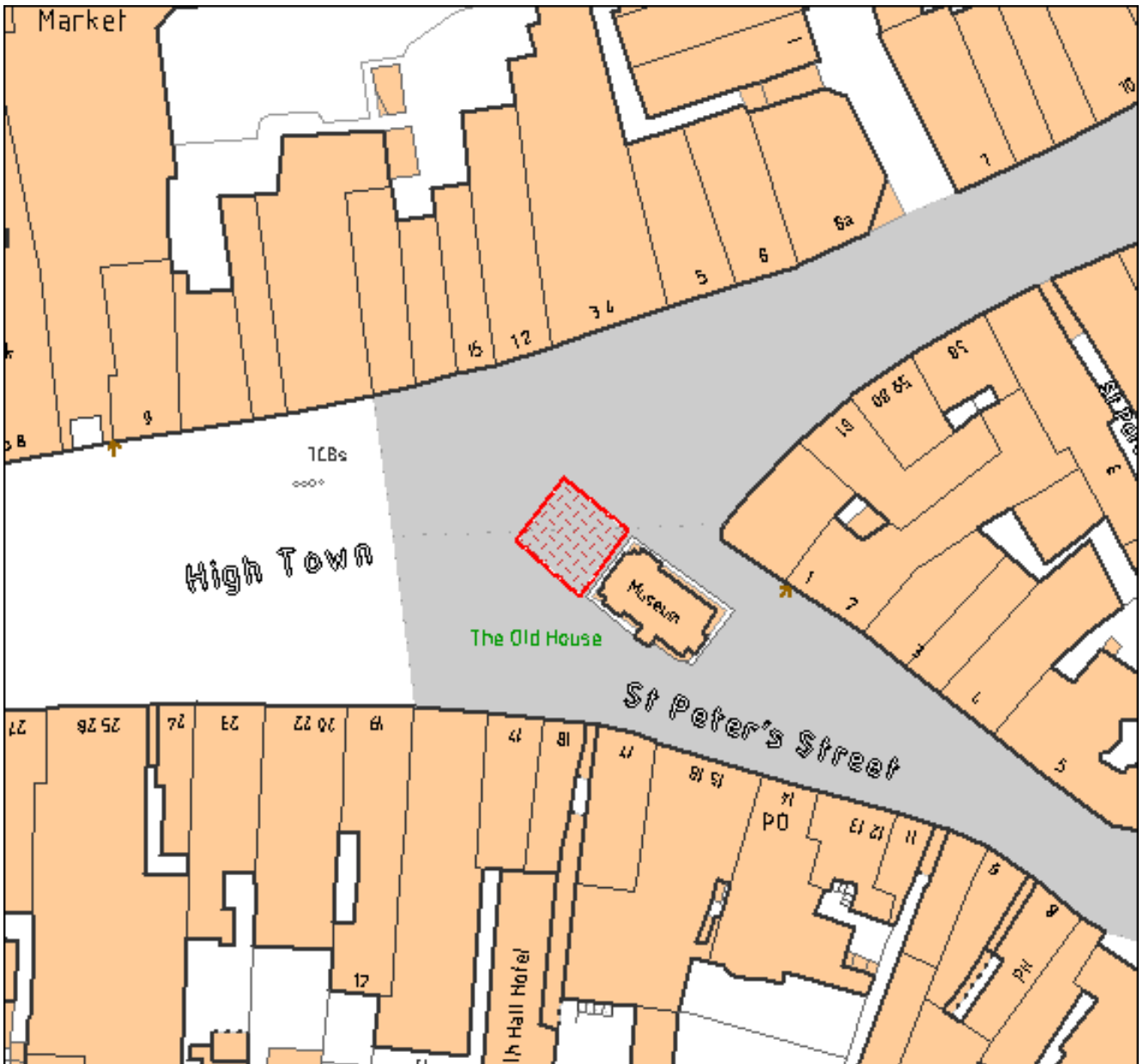
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## **Background Papers**

Internal departmental consultation replies.

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Further information on the subject of this report is available from Mr E Thomas on 01432 260479



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**APPLICATION NO:** S/120859/CD

**SITE ADDRESS :** ADJACENT TO THE OLD HOUSE, HIGH TOWN, HEREFORD

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Further information on the subject of this report is available from Mr E Thomas on 01432 260479





<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>16 MAY 2012</b>
<b>TITLE OF REPORT:</b>	<p><b>S113577/F - ERECTION OF 90 BED CARE HOME FOR THE ELDERLY AT ALTON ROAD, ROSS ON WYE, HEREFORDSHIRE, HR9 5ND</b></p> <p><b>For: M F Freeman Limited per Tetlow King Planning, Unit 2 Eclipse Office Park, High Street, Staple Hill, Bristol, BS16 5EL</b></p>
<b>WEBSITE LINK:</b>	<a href="http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113577&amp;NoSearch=True">http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113577&amp;NoSearch=True</a>

**Date Received: 21 December 2011      Ward: Ross-on-Wye East      Grid Ref: 360649,223752**

**Expiry Date: 6 April 2012**

Local Members: Councillors AM Atkinson and PGH Cutter

## 1. Site Description and Proposal

- 1.1 The site lies within the settlement boundary of Ross-on-Wye and Wye Valley Area of Outstanding Natural Beauty and is allocated as safeguarded employment land in the Herefordshire Unitary Development Plan. It is located on the south-eastern side of Alton Road approximately 0.8 km to the west of the town centre. The site is bordered to the north and south by commercial development, to the east by agricultural land and to the west by Alton Road (C1279) and residential properties.
- 1.2 This is a full application for a 90 bed care home for the elderly, a C2 use, that will provide 30 bedrooms for the frail elderly, 48 bedrooms for dementia care, 12 bedrooms for "end of life" dementia care, day rooms/dining rooms, office, shop, café and a cinema room. The building will be single storey and 2-storey under a flat roof. Courtyard/sitting areas are also proposed with an allotment at the rear of the building. Vehicular access is shown off the adjoining industrial estate road that exits onto Alton Road. Parking for 24 vehicles is proposed with 3 disabled parking spaces close to the entrance door to the care home. A 2 metre high close boarded fence is proposed along the northern, eastern and southern boundaries of the site with a native species hedge planted along the inside of the boundary fence. Hedgerow planting is proposed to the Alton Road frontage. A 3 metre wide unsegregated cycle/footway is proposed along the northern boundary of the site.

## 2. Policies

National Planning Policy Framework (NPPF)

Paragraphs 18-22 of the NPPF support the delivery of economic growth and caution against the long term protection of site allocation for employment use.

### 2.2 Herefordshire Unitary Development Plan:

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Further information on the subject of this report is available from Mr D Thomas on 01432 261974

S1	-	Sustainable Development
S2	-	Development Requirements
S4	-	Employment
S6	-	Transport
S11	-	Community Facilities and Services
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR5	-	Planning Obligations
DR13	-	Noise
DR14	-	Lighting
E5	-	Safeguarding Employment Land and Buildings
E7	-	Other Employment Proposals Within and Around Hereford and the Market Towns
E8	-	Design Standards for Employment Sites
CF5	-	New Community Facilities
CF7	-	Residential Nursing and Care Homes
T11	-	Parking Provision
LA1	-	Areas of Outstanding Natural Beauty
LA6	-	Landscaping Schemes

### 3. Planning History

- 3.1 DCSE2008/0775/O Outline planning permission for the redevelopment of existing site for a mixed use development including business/general industrial B1, b, c B2) and bulky goods retail (A1) uses. Approved 20.3.2008.
- 3.2 DCSE0009/1186/O 60 bed care home. Withdrawn.
- 3.3 DMSE/100420/O 60 bed care home for the elderly. Refused 21.7.2010. Appeal allowed 29.11.2010.

### 4. Consultation Summary

#### Statutory Consultees

- 4.1 Welsh Water has no objection subject to conditions.

#### Internal Council Advice

- 4.2 Traffic Manager requires further information; proposed parking needs to be justified, cycle/footway route must be provided; the route needs to be amended to give a crossover not a junction.
- 4.3 Conservation Manager/Landscape Officer objects to the application in that it does not achieve a high standard of design; the proposal does not respect the context of the site, the layout does not take into account townscape and landscape character and topography, vistas, views or ridgelines.
- 4.4 Conservation Manager/Historic Buildings Officer (Design comments) the design facilities for vulnerable occupants requires particular skill and sensitivity. It is questionable whether an industrial estate is a suitable “therapeutic environment” in the first place.

4.5 Environmental Health Officer comments the site is clearly affected by noise from mixed sources. A detailed noise report has been provided that indicates that the site falls into an area where noise should be taken into account when determining planning applications and, where appropriate, conditions imposed to ensure an adequate level of protection against noise. There is no objection to the development proceeding, provided that the mitigation measures proposed in the consultant's report are carried out in full.

## 5. Representations

5.1 In support of the application it is said:

- Application proposes a residential care home for the elderly comprising 60 specialised beds devoted to the care dementia sufferers and 30 bedrooms for the care of frail elderly residents.
- Facilities will include single bedrooms with en-suite facilities, communal facilities, ancillary spaces and staff and servicing facilities.
- The proposal will create the equivalent of 94 fulltime jobs.
- The site once housed a works canteen now demolished and a car park. The site is flat.
- There is housing on the opposite side of Alton Road with refurbished building to the north comprising offices and industrial units and there is a factory to the south.
- The site is adjacent to a residential area. No immediate neighbours overlook the site, on a relatively quiet road.
- This proposal will have far less impact in terms of traffic than the retail development and commercial scheme already approved. It will not generate large number of HGV movements.
- This is a suitable site for a 90 bed care home.
- There is no dominant, established vernacular use of a particular material in the locale of this proposal. Therefore, white render is proposed for the walls.
- Landscaping is proposed incorporating seating areas.
- This proposal provides a modern and efficient care home in a town and district with high levels of older people. It is located in the correct place; a settlement that is at the top ends of the settlement hierarchy.
- The issues of loss of employment are not applicable. It is a question of whether Policy E5 even applies. In any event the proposal will provide a range of jobs from the unskilled and highly skilled.

5.2 Ross Town Council has no objection. The application is supported on the basis of provision of local need and employment. There will also be lower traffic and amenity impact on than other potential uses of this site.

5.3 Ross Rural Parish Council has no objection.

5.4 Five objections have been received. In summary it is said:

- Having received the pre-application notification from the planning agent I was able to raise concerns over the impacts of traffic along Alton Road and the need for appropriate landscaping along the Alton Road boundary.
- I acknowledge that a commercial use of the site could generate similar vehicle movements, which could consist of more HGV movements, my initial comments to the applicant's agent over traffic calming along Alton Road remains unchanged.
- Any development on the proposed site would add to vehicle movements on a road that already suffers from traffic travelling at high speeds. This has caused concerns to both local residents and the police in the past and poses a real safety issue for the residents and their families.
- In considering this application (or any other application(s) of this size on this site) would it therefore not be appropriate to seek a contribution from the developer towards improving

the local environment for the residents of Alton Road by providing measures for traffic calming and sufficient landscaping to protect their amenity.

- I do not understand why you believe the elderly would pay to spend the last years of their life on an industrial estate. There must be more appropriate sites in Ross.
- High fence is not shown. Impact on residents is not shown.
- Dining room and roof garden will look into neighbours' windows.
- Is there enough parking?
- A care home should not be permitted next to (in) an industrial estate.
- We are trying to purchase a site in the Ross area so that we can expand our business.

5.5 AJ Porter, Bauer Kompression, Unit 6A Alton Road Business Park, Alton Road, Ross-on-Wye, comments:

“Whilst, we have no issue with the proposal we feel it necessary for the Planning Committee to be aware of the situation regarding noise to prevent complaints arising in the future.”

5.6 Ian White, Force Crime Risk Officer, West Mercia Police, Victoria Road, Malvern.

- Recommend the applicant gives consideration to the Secured by Design award for this development. The principles and standards of the award have been proven to achieve a reduction in crime by 60%.
- Existing landscaping is included in the design and access statement but long term management is not included. Unmanaged landscaping can be notoriously challenging to maintain to desired standards.
- Recessed entrances can provide areas where people congregate and remain longer than they would do otherwise. This creates a crime feature that can directly influence crime and anti-social behaviour and increase the fear of crime, particularly during the hours of darkness. Recessed areas afford limited natural surveillance opportunity providing criminal offenders with the vital anonymity they desire.
- I have concerns with regard to the service block/smoking shelter area and any access points that they may be afforded from the cycle/footway. How will this area be managed?

5.7 The consultation responses can be viewed on the Council's website by using the following link:-

[www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx](http://www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx)

Internet access is available at the Council's Customer Service Centres:-

[www.herefordshire.gov.uk/community\\_and\\_living/consumer\\_advice/41840.asp](http://www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp)

## **6. Officer's Appraisal**

6.1 The application site is located within safeguarded employment land, as defined in Policy E5 of the Unitary Development Plan.

6.2 Policy E5 states that proposals will only be permitted where there would be substantial benefits to residential or other amenity in allowing alternative forms of development, and the site or premises concerned can be shown to be unsuitable for other employment uses, including consideration of mitigation measures.

6.3 Policy CF7 which deals specifically with residential care homes comments that such development should be located within areas that are suitable for other forms of residential accommodation and ideally be situated close to local services and public transport routes. It is important to ensure that a satisfactory standard of accommodation is provided for residents, with appropriate levels of external amenity space. In addition, and recognising that such facilities are likely to be established within existing residential areas, it is important that the



levels of noise and activity arising, for instance through social functions or traffic, does not significantly impact upon the amenity of local residents.

- 6.4 There is outline planning permission on part of the application site for a 60 bed care home that was allowed on appeal, DMSE/100420/O refers. This application proposes the development of the whole site for a 90 bed care home, associated parking, landscaping and amenity areas. Consequently it is considered that the main issue in this application is whether this larger site represents an appropriate one for a residential care. In this case the Planning Policy Manager comments that the site forms part of an area which is safeguarded for employment uses under Saved Policy E5 of the Herefordshire Unitary Development Plan (UDP). The proposal is fundamentally residential in character and is therefore contrary to this policy. However, notwithstanding the conflict with Policy E5, the loss of employment land should also be weighed against the number of jobs created. The applicant has said the equivalent of 94 jobs will be created should this development proceed.
- 6.5 Having established conflict with the UDP, it is worth considering whether any amelioration, sufficient to outweigh this conflict, can be achieved. The application site currently lies vacant and contributes nothing to the local economy as far as jobs are concerned. In sharp contrast, the applicant states that the proposal would create the equivalent of 94 full time jobs made up of 43 full time and 70 part time employees. These would include nurses, therapists, care assistants, cleaners, kitchen staff, building/ground maintenance, administration and management. The proposal would provide a modern care home in a town that has high levels of older people. These merits need to be balanced against the following potential counter argument, namely whether the social and economic benefits, which include job creation and helping to provide for the needs of an ageing population, outweigh the harm to the supply of employment land and buildings in Ross-on-Wye.
- 6.6 Saved Policies CF7 (Residential nursing and care homes) and LA1 (AONB) are also relevant, but the emerging Core Strategy has not yet reached the stage where it can be considered as a material planning consideration. With regard to job creation is concerned, the National Planning Policy Framework promotes policies that support economic growth by taking a positive approach in the development of community facilities. However, in this instance the evidence base underlying the Local Development Framework is clear in that the site should be protected from non-employment uses during the next plan period. This has particular relevance in this application in that adjacent employment buildings are occupied and in use which would suggest there is a reasonable prospect of the site being used for employment uses in the future.
- 6.7 The degree to which the UDP is up-to-date and relevant needs to be considered. As part of the evidence base for the emerging Core Strategy a study of employment land requirements has been undertaken, updated in 2010 and published on the Council's website. In that study the site falls within Alton Court Industrial Estate. That area is noted in table 5.3 and at paragraph 5.90 of the study as having a "Market Attractiveness" of 3 (potential top mark = 4) and a "Strategic Planning and Sustainability" mark of 2 (out of a possible top mark of 3). It is classified as "Good". The evidence base therefore supports this site as being in the highest category, "Good", of sites to be protected from non-employment uses.
- 6.8 On that basis, the application site remains an important part of the County's employment land supply. The fact that the majority of premises on the Alton Court Industrial Estate are occupied suggests that the site is viable for employment uses and so its continued protection, through the application of planning policies, from non-employment use would be worthwhile. There is a careful judgment call to be made here, effectively weighing two completely different interests against each other but in this case, based upon the comments of the Policy Planning Manager and the Economic Development Manager, I consider the balance to be in favour of

the protection of the allocation from further non B1, B2 or B8 uses in accordance with Policy E5.

- 6.9 Material to the determination of this application is the affect adjoining businesses and processes could have on the ability of operating the care and effect upon the residents of the care home. Also, consideration needs to be given to the effect a care home in this location would have on adjoining businesses. An acoustic report has been submitted with the application which includes mitigation measures to protect the residents of potential noise nuisance from adjoining businesses and uses. The report concludes the most significant source of nuisance affecting the site are road traffic along Alton Road and plant noise from industrial premises to the south operated by MX Group. Elevations facing the source of noise are to be constructed to incorporate sound insulation which the Environmental Protection Manager should protect the occupants of the building from potential noise nuisance that may arise from time to time.
- 6.10 Insofar as the impact of the proposal on the local environment and the Wye Valley Area of Outstanding Natural Beauty (AONB) is concerned, the Conservation Manager acknowledges the site is suitable for development, being in an urban area and well contained in the industrial estate. The proposed white and grey external finishes further add to the industrial character. However, it is said the site layout does not make a positive contribution to the public realm along Alton Road; a car park is located at the front of the site. Notwithstanding this comment, the proposal needs to be seen in context with the recent redeveloped industrial units to the north and the MX factory building to the south. These buildings are large in scale and influence the size and form of development on this site. They are also set back from Alton Road with parking areas to the front of the buildings. When seen in this context, the proposed building with its industrial aesthetic, scale and siting behind a parking area will allow the proposal to blend into and be seen as an integral part of local environment so as not to harm the intrinsic beauty of this part of the AONB which is a mix of housing development and industrial development on the edge of Ross-on-Wye.
- 6.11 With regard to highway safety, the Traffic Manager considers the parking provision is low and the cycle/footway must be provided. The application proposes a total of 27 spaces which based on the number of bed spaces proposed in relation to the Council's parking standards, 1 space per 4 bedrooms, is an over provision. However up to 15 spaces would be required for staff parking to accord fully with the standards. As mentioned earlier in this report staffing is to be made up of full time and part time jobs. The under provision of parking was considered as part of the previous appeal application for a care home, albeit a smaller proposal when the Inspector expressed concerns in respect of traffic and parking although the Council have not raised these matters as a reason to dismiss this appeal. In this sustainable location, I do not consider the under-provision of staff car parking to be a ground for the refusal, bearing in mind the site's designation for employment use and existing permission for retail I consider the proposed use would not cause material traffic problems. Also, the site is on a regular bus route. With regard to the scale of the proposal, the applicant has agreed in principle to enter into an Agreement to contribute a total of £8, 6167.07 to provide for sustainable transport infrastructure to serve the development with the provision of improved pedestrian/cycle crossing facilities to the town centre.
- 6.12 In reply to consultation responses from the Economic Development Officer and the Planning Policy Manager the applicant has submitted a report that concludes the proposal complies with Policy CF7 and the requirements in Policy S2 (2) which promote mixed use development where amenity considerations are satisfactory and respect the development potential of adjoining land and that the proposal should be considered as an exception to the current Development Plan policies. It is also said the proposal is supported by the National Planning Policy Framework. The report has been forwarded to the Planning Policy Manager and the Economic Development Officer for comment. An update will be given at the Planning Committee meeting.

6.13 In conclusion, whilst the principle of residential development has been established on part of the application site, the proposal would result in the loss of "Good" quality employment land on a site safeguarded for Class B employment uses in the current development plan. The evidence base underlying the emerging Local Development Framework reinforces the quality of the site and provides a sound basis for emerging policy to maintain its protected status. The proposal is considered to conflict with policy E5.

## RECOMMENDATION

**That planning permission be refused for the following reason:**

- 1. The provision of a care home on this site which is safeguarded for employment purposes in the Herefordshire Unitary Development Plan is considered an inappropriate development that would lead to the loss of good employment land which needs to be protected from non-employment uses. Consequently, it is considered the proposal conflicts with Policy E5 of the Herefordshire Unitary Development Plan.**

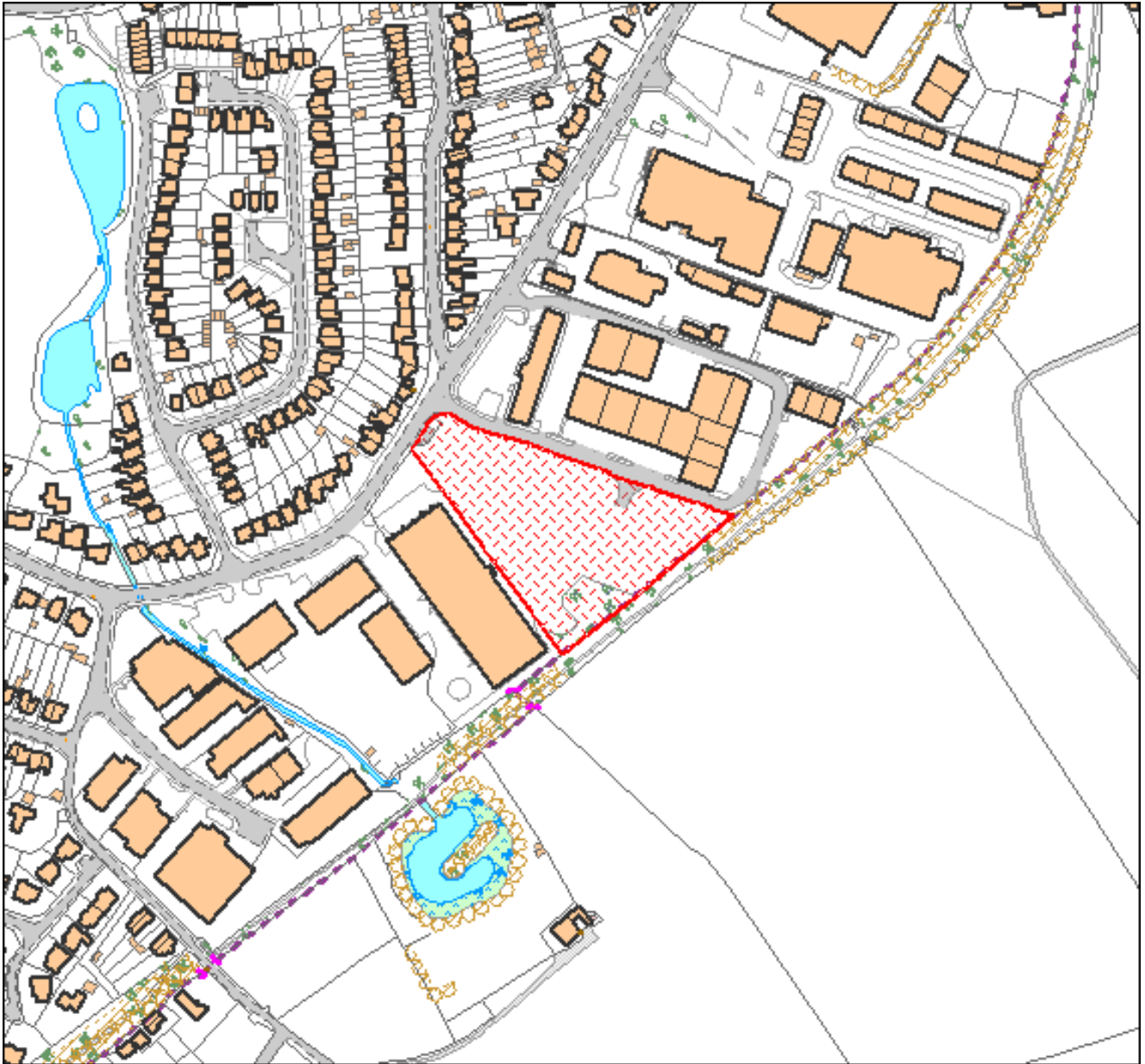
Decision: .....

Notes: .....

.....

## Background Papers

Internal departmental consultation replies.



This copy has been produced specifically for Planning purposes. No further copies may be made.

**APPLICATION NO:** S/113577/F

**SITE ADDRESS :** ALTON ROAD, ROSS ON WYE, HEREFORDSHIRE, HR9 5ND

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Further information on the subject of this report is available from Mr D Thomas on 01432 261974



<b>MEETING:</b>	<b>PLANNING COMMITTEE</b>
<b>DATE:</b>	<b>16 MAY 2012</b>
<b>TITLE OF REPORT:</b>	<p><b>S113564/F- CHANGE OF USE OF THE GARDEN FROM USE CLASS A4 DRINKING ESTABLISHMENT TO USE CLASS C3 DWELLING HOUSES. CONSTRUCTION OF 2 NEW DWELLINGS AND CREATION OF PUBLIC PAVEMENT AT GARDEN OF THE BULL RING INN, KINGSTONE, HEREFORD, HR2 9HE</b></p> <p><b>For: Mr Braithwaite per Michael Drake Architects Ltd, 83 Greenbank Road, Greenbank, Bristol, BS5 6HE</b></p>
<b>WEBSITE LINK:</b>	<a href="http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113564&amp;NoSearch=True">http://www.herefordshire.gov.uk/housing/planning/58286.aspx?ID=113564&amp;NoSearch=True</a>

**Date Received: 20 December 2011 Ward: Valletts**

**Grid Ref: 342366,235657**

**Expiry Date: 29 February 2012**

Local Member: Councillor JF Knipe

## 1. Site Description and Proposal

- 1.1 The application site comprises part of the hedgerow lined garden to the Bull Ring public house. This area of land is to the north east of the public house and adjoins the existing car park that will remain with the public house. The site is 32 metres at its widest where it adjoins the existing car park. It tapers down to 8 metres as the site inclines on this grassed area. The C1221 road skirts the south eastern side of the site, which is elevated above the road. The application site includes a hedgerow between the aforementioned class III road and the existing car-park. The application site adjoins the boundaries of two residential properties, Ash Tree Cottage and Rosemary Cottage. There are three further dwellings on the opposite side of the C1221 road. The southern most dwelling (Green Court Cottage) is a Grade II listed building. The other two dwellings are later red brick faced houses that are separated from the C1221 road by a triangular area of grass.
- 1.2 The application site is wholly within the defined settlement boundary for Kingstone which is designated as one of the main villages in Policy H4 of Herefordshire Unitary Development Plan.
- 1.3 It is proposed to erect two 3 bed dwellings on this site, which would be elevated above the level of the C1221 road by 1.6 metres. The brick faced dwellings will share one central access point with parking provided to the rear of each of the detached dwellings. Visibility of 2.4m by 43m in each direction will be created onto the C1221, which will entail reducing the height of the existing bank that adjoins the road. A footpath will be created along the roadside frontage and will link to the existing vehicular entrance into the public house.
- 1.4 The house nearest to the existing public house car park will be brick faced under a reclaimed slate roof that is 7.7 metres to the ridge. The other house which is on the more elevated part

Further information on the subject of this report is available from Andrew Prior on 01432 261932

of the site is 7 metres to the ridge. The reduced ridge height being achieved by providing the first floor accommodation comprising 3 bedrooms within the roof space. The principal or roadside elevation will have three dormer windows. It too will be faced in red brick under a slate.

- 1.5 This revised application follows one for three dwellings that was withdrawn following concerns raised by the Conservation Manager. The applicant has confirmed that commencement will be undertaken within 12 months and therefore there is no requirement to secure Section 106 contributions.

## 2. Policies

### 2.1 National Planning Policy Framework

It is considered that paragraphs 14, 17, 30, 47, 56 and Annex 1: Implementation are particularly relevant to this application.

### 2.2 Herefordshire Unitary Development Plan HUDP

S1	-	Sustainable Development
S2	-	Development Requirements
DR1	-	Design
DR2	-	Land Use and Activity
DR3	-	Movement
DR5	-	Planning Obligations
H4	-	Main villages: Settlement Boundaries
H13	-	Sustainable Residential Design
H14	-	Re-using Previously Developed Land and Buildings
H15	-	Density
H16	-	Car Parking
HBA4	-	Setting of Listed Buildings
HBA9	-	Protection of Open Areas and Green Spaces
CF6	-	Retention of existing facilities
T8	-	Road Hierarchy

## 3. Planning History

- 3.1 DCSW2004/3540/O Site for residential development. Refused 13.01.2005 as follows:

*It is considered that with the need to provide adequate visibility across the site frontage which, given the difference in levels, i.e between the highway and the site, together with the loss of established hedgerow, would be detrimental to the amenity of this part of the village. Therefore, the proposal is contrary to the provisions of Policies GD.1, SH.8 and T.3 contained in the South Herefordshire District Local Plan*

*The development of the site, given its elevated position and the contribution the open space makes to the village, would be visually intrusive and would detract from the amenity of this part of the village. Therefore, the proposal is contrary to the provisions of Policies GD.1, SH.8 and C.30 contained in the South Herefordshire District Local Plan.*

- 3.2 DMS/110649/F Change of use of land from Use Class A4 drinking establishment to Use Class C3 dwelling houses, construction of 3 new dwellings and public footpath. Withdrawn 1.08.2011.

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Further information on the subject of this report is available from Andrew Prior on 01432 261932

## 4 Consultation Summary

### Statutory Consultations

- 4.1 Welsh Water raise no objections subject to the imposition of conditions relating to the separate treatment of foul and surface water

### Internal Council Advice

- 4.2 Traffic Manager supports the application subject to footpath across site frontage being adopted and conditions relating to visibility.
- 4.3 Conservation Manager states that in the new scheme, the two dwellings are placed, rather more as a traditional street frontage than previously (for withdrawn scheme), and at a much reduced ground level. The two houses relate to the triangular green to the east, and doing that will enclose and create a new 'streetscape' of definite visual quality. The much narrower plans and gables of the proposed houses are much closer to the scale of traditional village buildings, and this will reinforce the impression of a village frontage. Many of our earlier concerns about, for example, multiple accesses, poor house types and over dense development have been addressed in this new scheme. And I note that the development does not stand directly in front of the listed Green Court Cottage, so that its setting will be affected, but in my view, not harmed. In addition, the orientation of the houses, their form and their reduced level mean that the view from the churchyard to the distant rim of hills, which gives a strong rural churchyard feeling, will not be so profoundly affected.

I conclude that the settings of the adjacent listed buildings are affected but not harmed in this scheme and that the scheme therefore meets the UDP and NPPF policy tests.

Landscaping conditions are required. Boundaries should be green and not solid timber fencing. The dormer detail of House 2 and consequent larger number of downpipes, is rather coarse and requiring the agreement of details would be appropriate

- 4.4 Public Rights of Way Manager raises no objections, as it will not impact on public footpath

## 5. Representations

- 5.1 Kingstone Parish Council make the following observations:

Agreed that comments made in respect of previous application for 3 houses remain valid. At the previous Council meeting in December members of the public were unanimous in opposing the application

Our original comments for the first application were;-

The Parish Council has serious concerns over any proposal that jeopardizes the future of the one remaining public house in Kingstone. Whilst this proposal keeps the pub, the car parking area is greatly reduced and this could make it difficult for any future owner to expand the business. There have been proposals like this in the past and there was concern about cars entering onto the road on a blind bend. Is the highway engineer satisfied that the footpath overcomes previous perceived problems?

As the buildings opposite are listed, is the development appropriate? The Parish Council has for many years, with the agreement of the publicans, used the pub car park for weddings, funerals and other events keeping the roads relatively free. With many events this has included using the proposed development site

The footpath would be most welcome solving one of the long-standing pedestrian safety problems in the village. Even so the Parish Council on balance recommends the refusal of the application.

In addition to the above it was noted that footpath is still not joined for walking around the pub to the Post Office. The car parking calculations, in the supporting documents item 4.5.6: ignore the potential for more unused areas of the pub to be used when run as a successful business. Councillors were unanimous in rejecting this application.

5.2 Eight letters of objection have been received from local residents. These are summarised as follows:

- Loss of car-park (third to half) makes pub less attractive and viable i.e to extend it
- Site used by church, it has no car-park for services i.e. weddings, funerals and by other organizations
- Site used previously, e.g. boules could be used again.
- Only venue in Kingstone for hot food.
- Key facility in village with Post Office and shop.
- Loss of hedgerow particularly for car-park result in car headlights shining in on us. Also structural work required if bank to remaining car-park removed.
- Height of dwellings; dominant
- New access dangerous , result in faster traffic and noise/disturbance
- Path better sited on opposite site of road.
- Although not attractive site used by wildlife.

5.3 The consultation responses can be viewed on the Council's website by using the following link:-

[www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx](http://www.herefordshire.gov.uk/housing/planning/searchplanningapplications.aspx)

Internet access is available at the Council's Customer Service Centres:-

[www.herefordshire.gov.uk/community\\_and\\_living/consumer\\_advice/41840.asp](http://www.herefordshire.gov.uk/community_and_living/consumer_advice/41840.asp)

## **6. Officer's Appraisal**

6.1 The key issues for consideration in the determination of this detailed application are as follows:

- (a) Principle of development/loss of community facilities.
- (b) Impact of the development upon the locality including a listed building and views of the church
- (c) Impact upon residential amenity.
- (d) Highway safety.

### Principle of development/impact on pub viability

6.2 The application site is wholly within the settlement boundary for Kingstone and as such, the principle of residential development is broadly supported by Policy H4 of the HUDP. Further to this the importance attached to the retention of the public house as a locally important community facility is acknowledged. In this respect Policy CF6 requires that consideration must be given to the impact of development proposals that would result in the loss of existing facilities. In this case, whilst the proposed residential development would result in the loss of part of the existing curtilage of the public house, its use as such will continue. A total of 21 parking spaces will be retained together with a beer garden and play area, and in this respect it is not considered that the proposal will result in the loss of the facility and moreover will retain appropriate ancillary facilities to enable it to continue trading. It seems clear from local representations that the parking area has been used by agreement as parking for Church



goers. The benefits of this are acknowledged but such an arrangement is not in my view legally enforceable and would not represent a reasonable ground for the refusal of permission since it could be stopped at any point.

- 6.3 In view of the above, whilst the concerns of local residents are duly noted, there is no evidence to suggest that the public house would not continue to operate should planning permission be granted and as such the proposal is considered to accord with Policies H4 and CF6 of the HUDP. .

#### Impact on locality

- 6.4 The new dwellings have been sited such that they front onto the C1221 road, this reflects the relationship of the dwellings on the opposite side of the road. The siting of the slightly staggered dwellings will also still allow views across the rear of the relatively deep gardens. This issue is one that was identified previously by the Building Conservation Officer as being of particular significance when looking south westwards from the grounds of St Michaels All Angels Church over the Bull Ring towards distant hills and vice versa from the south west. This was one of the determinants of considering any residential development on the site. The siting of the dwellings proposed still leaves sufficient spacing to the rear or west and between the new two –storey dwellings to allow views through the site and achieve a plot coverage reflecting dwellings in the vicinity of the application site. It is also considered as regards the relationship to the grade II Green Court Cottage, that the orientation of the southernmost dwelling (house 1) will not adversely impinge upon the setting of this listed dwelling. Therefore, the proposal accords with Policy HBA4 of Unitary Development Plan.
- 6.5 The dwellings will need to be cut into the site. This is detailed in sections provided across the site showing the relative ridge heights as compared to existing dwellings to the north west adjoining the application site and on the opposite side of the C1221 road. The new detached dwellings are of differing ridge heights, the northernmost one (house 2 ) will only be 6.7 metres to the ridge, has been cut into the site as has the taller dwelling (house 1) down slope from it. House 2 is comprised of two elements one of which is 7.6 metres high and the other on the down slope 7 metres to the ridge. The scale and massing reflects the scale of other properties in the vicinity of the site and also reduces the impact of the development in the street scene. The impact of the dwellings can also be ameliorated by sensitive landscaping around the site which would be the subject of a planning condition.
- 6.6 The application site constitutes part of an open space and therefore the proposal needs to satisfy the requirements of Policy HBA9 of Unitary Development Development Plan. Whilst, this privately used area of land makes a contribution to the amenity of the village. It is considered that the remaining land left with the public house and the low density of development proposed and landscaping will outweigh the loss of hedgerow lined open space. Therefore, it is considered on balance that that the proposal accords with Policy HBA9 of Unitary Development Plan.
- 6.7 It is considered that the simple forms of the dwellings proposed, the use of dormer windows, white painted windows, facing brick and slate type materials will reflect the local vernacular and will assist in settling the new dwellings into the site. Therefore, the proposal as regards use of materials accords with Policies DR1, H13 and HBA9 of Unitary Development Plan.

#### Impact upon residential amenity

- 6.8 Whilst, limited representations have been received in relation to the amenity of residents in the vicinity of the application site, nevertheless it is a relevant consideration. It is considered that the orientation and distance of the two dwellings in relation to the existing dwellings across the C1221 road and to the south east is such that the proposal will not result in adverse overlooking. Furthermore, whilst the site is elevated in relation to the road, the new dwellings

will be set down below existing ground levels and the relatively modest height and articulated roof designs are such that the proposed development will not be overly dominant or overbearing on neighbouring properties. The approval of slab levels by condition will ensure that the two dwellings are set down as much as practicable. It is also not considered that the noise and disturbance from the use of the new dual access would impact significantly upon the amenities of residents living opposite the site entrance. This is with regard to car head-lights, as these will be directed towards the triangular area of village green and not the dwellings either side of it.

- 6.9 Reference has been made to the removal of bank and hedgerow opposite Green Court Cottage. This is in order to facilitate improved access and the provision of the footpath that extends along the site frontage. This is a matter that will need consideration in the interests of the amenity of the site and those of residents living opposite the car-park. This can be addressed within the remit of a landscaping condition that would be required in any case for the new site frontage and as regards boundaries for the new dwellings.

#### Highway safety

- 6.10 Representations have been received in relation to highway safety and in particular to the position of the proposed new access. It is not considered that the provision of a single access point with the requisite visibility available in each direction, as detailed in submitted plans, will adversely effect highway safety in the locality. The new access arrangements are endorsed by the Traffic Manager. The removal of bank and hedgerow will not only improve visibility around the bend, but will also improve facilities for pedestrians and provide improved pedestrian linkage with the provision of a new footpath. The footpath is also considered to be provided in the optimum position. Providing a footpath on the opposite side of the C1221, as supported in representations received, would potentially impinge upon the amenity of residents on that side of the road given the proximity of the footpath to their properties. A safe access and localised improvements to pedestrian access can be facilitated and therefore the proposal accords with Policies DR3 and T8 of Unitary Development Plan.

#### Conclusion

- 6.11 It is considered that the development proposed will provide a good quality small scale housing scheme that will also improve footpath linkages in the village, a matter which the Parish Council supports. Whilst the two new dwellings will have an impact on this elevated site, this can be mitigated by landscaping. It is not considered that the development of this site will materially impact upon the long term viability of the public house and the siting and orientation of the two dwellings will compliment the existing street scene and will not have an adverse impact on the setting of listed buildings in the vicinity. The distances between new and existing dwellings in the vicinity of the application site are satisfactory as regards the possibility of overlooking and overshadowing existing dwellings. The means of access provides for appropriate levels of visibility onto the C1221 and the new footpath will provide refuge for pedestrians walking to the public house, shop and post office. Having regard to all of the above, it is considered that the application accords with the guidance contained within the National Planning Policy Framework together with Policies S1, S2, DR1, DR2, DR3, H4, H13, H15, H16, HBA4, HBA9, T8 and CF6 of Herefordshire Unitary Development Plan.

## **RECOMMENDATION**

**That planning permission be granted subject to the following conditions:**

- 1. The development hereby permitted shall be begun before the expiration of one year from the date of this permission**

**Reason: To comply with the provisions of Section 91(1) (b) of the Town and Country**

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Further information on the subject of this report is available from Andrew Prior on 01432 261932

Planning Act 1990 (as amended) and to reflect the decision of the Local Planning Authority on 4 March 2009 to suspend (effective from 1 April 2009) the requirements of the Authority's 'Planning Obligations' Supplementary Planning document (February 2008) in relation to residential developments of five dwellings or less.

2. B01 Development in accordance with the approved plans
3. C01 Samples of external materials
4. G10 Landscaping scheme (including boundary treatments)
5. G11 Landscaping scheme - implementation
6. HO3 Visibility splays
7. H05 Access gates
8. H06 Vehicular access construction
9. H09 Driveway gradient
10. H13 Access, turning area and parking
11. H17 Junction improvement/off site works
12. I51 Details of slab levels
13. L01 Foul/surface water drainage
14. L02 No surface water to connect to public system
15. L03 No drainage run-off to public system

#### Reason for Approval

1. Having regard to the erection of these two detached dwellings, the local planning authority considered that the small scale development of this site within Kingstone, an identified Main Village was acceptable in principle and as such in accordance with Policy H4 of the Herefordshire Unitary Development Plan. Furthermore it was considered that the proposal would not result in the loss of an existing community facility and as such satisfied the requirements of Policy CF6. It was considered that design, scale and layout of the dwellings were in keeping with the character of the locality and together with their relationship to existing dwellings and listed buildings in the vicinity of the site; the means of access; improved pedestrian access and the impact upon the residential amenity of residents the proposal was considered acceptable. As the proposal also accords with Policies S2, DR1, DR2, DR3, H13, H15, H16, T8, HBA4 and HBA9 of Herefordshire Unitary Development Plan and the guidance contained with the National Planning Policy Framework.

Decision: .....

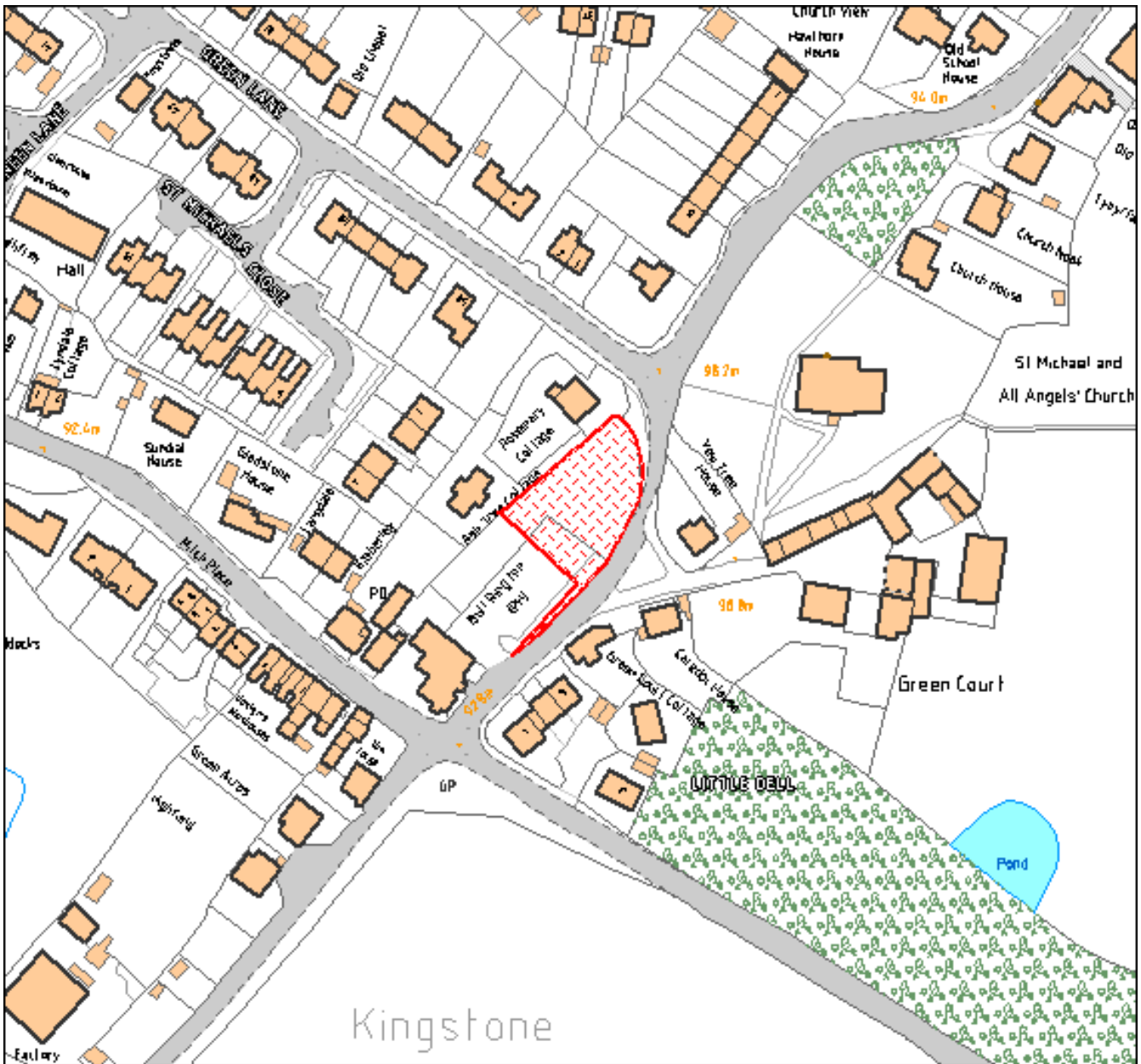
Notes: .....

#### Background Papers

Internal departmental consultation replies.

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Further information on the subject of this report is available from Andrew Prior on 01432 261932



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**APPLICATION NO:** S/113564/F

**SITE ADDRESS :** GARDEN OF THE BULL RING INN, KINGSTONE, HEREFORD, HR2 9HE

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